

Number: **WG25023**



Llywodraeth Cymru
Welsh Government

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Consultation – Index of responses – Part 3

Developments of National Significance

Date of issue: **November 2015**

Cyfeiriad yr ymgynghoriad: LIC25023

Datblygiadau o Arwyddocâd Cenedlaethol		
Dyddiad y cyfnod ymgynghori: 20/05/2015 – 12/08/2015		
Enw	Gareth Jones	
Sefydliad	Cyngor Gwynedd	
Cyfeiriad	Ffordd y Cob Pwllheli Gwynedd	
Cyfeiriad e-bost	LL53 5AA	
Math o gorff (<i>dewiswch un o'r canlynol</i>)	Busnesau/ Ymgynghorwyr	<input type="checkbox"/>
	Awdurdodau Cynllunio Lleol	<input checked="" type="checkbox"/>
	Asiantaethau y Llywodraeth/Sector Cyhoeddus Arall	<input type="checkbox"/>
	Cyrff Proffesiynol/Grwpiau Buddiant	<input type="checkbox"/>
	Sector gwirfoddol (grwpiau cymunedol, gwirfoddolwyr, grwpiau hunangymorth, cwmnïau cydweithredol, mentrau cymdeithasol, sefydliadau crefyddol di-elw)	<input type="checkbox"/>
	Arall (grwpiau eraill sydd heb eu rhestru uchod) neu unigolyn	<input type="checkbox"/>

C1	Ydych chi'n cytuno â'r trothwyon a'r categorïau datblygu arfaethedig a nodir yn y tabl uchod? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:

Ydw, gyn belled eu bod yn cael eu hadolygu yn gyson

Cyfeiriad yr ymgynghoriad: LIC25023

C2	Ydych chi'n cytuno â'r dull arfaethedig hwn o benderfynu ar gydsyniadau eilaidd? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sylwadau:				

C3	Ydych chi'n cytuno y gallai'r Arolygydd benderfynu ar weithdrefn ar gyfer cydsyniadau eilaidd? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sylwadau: Cyn belled bod yr awdurdod sy'n cydsynio yn cael y cyfle i ddarparu ymateb (substantive response)				

C4	Ydych chi'n cytuno â'r rhestr arfaethedig o gydsyniadau eilaidd? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sylwadau: Consyrrn fod y rhestr o gydsyniadau eilaidd a'r gallu i alw i mewn yn golygu y byddai mwy o benderfyniadau yn cael ei gwneud yn ganolog yn hytrach nac ar lefel lleol yn enwedig o ystyried fod nifer o'r cydsyniadau eilaidd sydd wedi'u rhestru yn faterion lleol iawn.				

C5	Ydych chi'n cytuno â'r gofynion sylfaenol o ran hysbysu Datblygiad o Arwyddocâd Cenedlaethol? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sylwadau: Ydw, fodd bynnag, mae'n ymddnagos yn broses 'di-wyneb' iawn heb gyfle i'r				

Cyfeiriad yr ymgynghoriad: LIC25023

cyhoedd allu trafod y bwriad gyda'r datblygwr e.e. cyfarfod cyhoeddus neu arddangosfa. Pryder hefyd os yw'r broses yma yn mynd i roi pwysau ychwanegol ar adnoddau prin Awdurdodau Cynllunio Lleol gan y bydd yn debygol y bydd y cyhoedd, nad ydynt yn debygol o ddeall y drefn gynllunio, yn cysylltu gyda'r ACLL er mwyn deall y datblygiad/broses.

C6	A yw 12 mis o'r dyddiad y derbyniwyd yr hysbysiad bod y cais am Ddatblygiad wedi'i gyflwyno yn gyfnod digonol i'r hysbysiad o Ddatblygiad fod yn ddilys? Os nad ydyw, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Sylwadau:

C7	Ydych chi'n cytuno â'r gofynion o ran cyhoeddusrwydd ac ymgynghori y mae'n rhaid i ddatblygwyr eu bodloni cyn cyflwyno cais am Ddatblygiad o Arwyddocâd Cenedlaethol? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Fel yn C5 mae pryder fod y broses yn un 'di-wyneb' ac fod gofyn am gyfarfod cyhoeddus neu arddangosfa gyhoeddus yn ychwanegol i hysbysebiadau safle/papur a llythyr. Pryder hefyd os yw'r broses yma yn mynd i roi pwysau ychwanegol ar adnoddau prin Awdurdodau Cynllunio Lleol gan y bydd yn debygol y bydd y cyhoedd, nad ydynt yn debygol o ddeall y drefn gynllunio, yn cysylltu gyda'r ACLL er mwyn deall y datblygiad/broses.

C8	Ydych chi'n cytuno â'n cynigion ar gyfer hysbysu cais am Ddatblygiad o Arwyddocâd Cenedlaethol? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Cyn belled nad yw'r ACLL yn gyfrifol am gostau'r trefniadau hysbysebu ar lefel lleol h.y. rhybuddion safle, hysbysebiad papur ayb

Cyfeiriad yr ymgynghoriad: LIC25023

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C9	Ydych chi'n cytuno â'n cynigion ynghylch datganiadau o dir cyffredin? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Yn gyffredinol mae hyn yn dderbyniol ond mae'n ymddangos fod angen arweiniad clir ar ofynion darparu Datganiad o Dir Cyffredin. Gall hyn fod yn broses sy'n cymryd llawer o amser staff yr ACLL, sydd eisoes yn brin, ac mae angen sicrhau fod canllawiau clir ar gael.

C10	Ydych chi'n ystyried 5 wythnos yn gyfnod priodol i ymgngoreion statudol ac unrhyw drydydd parti gyflwyno eu sylwadau yn llawn i ymateb i gais am Ddatblygiad o Arwyddocâd Cenedlaethol? Os nad ydych, nodwch amserlen arall.	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Cyn belled fod yr Arolygaeth yn gallu sicrhau fod yr holl wybodaeth angenrheidiol yn ei le ar gyfer asesu'r bwriad yn llawn gall hyn fod yn gyfnod tynn ond priodol - os nad yw'r wybodaeth i gyd ar gael ystyrir ei fod yn gyfnod rhy fyr - nid yw'n llawer mwy na'r 21 diwrnod arferol i gais cyffredin. Mae'n debyg y bydd cyfnod mor fyr yn golygu y bydd ffocws ar yr ymgynghoriad am lawer o'r cyfnod yma gan roi pwysau ar adnoddau prin - ac o bosibl ar draul ceisiadau eraill.

C11	Ydych chi'n cytuno â'n cynigion i ddiwygio'r cynlluniau ar gyfer Datblygiad o Arwyddocâd Cenedlaethol? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Dylai'r ffocws fod ar ddarparu'r cynllun mwyaf addas posibl ac er mwyn gwneud hyn mae'n rhaid cael elfen o hyblygrwydd yn y drefn

Cyfeiriad yr ymgynghoriad: LIC25023

C12	Ydych chi'n cytuno bod 10 diwrnod gwaith wedi dod â chyfnod cynnig sylwadau i ben yn amser priodol i'r Arolygiaeth Gynllunio benderfynu ar y drefn briodol i edrych ar gais am Ddatblygiad o Arwyddocâd Cenedlaethol? Os nad ydych, nodwch amserlen arall.	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sylwadau:				

C13	Ydych chi'n cytuno bod angen i'r sylwadau pellach, fel rhan o'r broses o archwilio cais am Ddatblygiad, fod â chyfyngiad geiriau o 3,000 gair y pwnc? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sylwadau: Mae'n bur annhebygol y bydd gofynion pob sefyllfa yr un peth				

C14	Ydych chi'n cytuno mai copïau ar bapur yn unig ddylai'r ymgeisydd eu cyflwyno ar gyfer cais am Ddatblygiad i'r Arolygiaeth Gynllunio a'r Awdurdodau Cynllunio Lleol y mae'r Datblygiad wedi'i leoli ynddynt? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sylwadau: O brofiad mae'r cyhoedd yn gofyn am weld copïau papur o geisiadau am ddatblygiadau mwy neu rhai cymhleth gyda llawer o ddogfennau cefndir. Nid oes gan bob grwp neu 3ydd parti y gallu i weld neu ddeall dogfennau neu gynlluniau mawr ar y we. Os am gael copïau papur ar gael mewn man cyhoeddus, y man amlwg i ddaprau rhain yw swyddfeydd ACLL - o wneud hyn mae pryder am oblygiadau ar amser ac adnoddau staff a dryswch gan y cyhoedd am rol yr ACLL yn yr achos.				

Cyfeiriad yr ymgynghoriad: LIC25023

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C15	Ydych chi'n cytuno â'r gofynion sylfaenol ar gyfer Adroddiadau ar yr Effaith Leol. Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Mae'n ymddangos fod agweddau o'r gofynion sylfaenol ar gyfer darparu AEL yn elfennau arbenigol ble bydd gofyn am dderbyn mewnbwn arbenigol - a yw hyn yn gyfridoldeb ar yr ACLL i ymgynghori ac adrodd ar y farn neu oes bwriad gan yr Arolygaeth i ymdrin â hyn mewn ffordd wahanol? Mae hyn yn debygol o arafu'r broses. Mae angen sicrwydd am yr elfen yma o'r broses gan y gall olygu methu cwrdd gyda'r amserlen benodol ac fod yr ACLL yn peidio derbyn ffi

C16	A fydddech chi'n ystyried 5 wythnos yn gyfnod amser priodol i ddarparu adroddiad effaith lleol? Os nad ydych, awgrymwch amserlen briodol.	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Gweler ateb i C15

C17	Ydych chi'n cytuno y dylai strwythur ffioedd y Datblygiad gynnwys ffioedd cyfradd dyddiol neu fesul awr penodol i adfer costau Gweinidogion Cymru (a'u cynrychiolwyr penodedig, yr Arolygiaeth Cynllunio) wrth gyflawni'r gwaith? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Sylwadau:
Er fod son y bydd y drefn yma yn cynnig sicrwydd mae'n ymddangos fel ei fod yn cyflwyno strwythur ffioedd newydd ac ychwanegol i'r un bresennol sy'n gymhleth ac yn ben agored

Cyfeiriad yr ymgynghoriad: LIC25023

C18	Ydych chi'n cytuno y dylai'r Awdurdod Cynllunio Lleol dderbyn ffi benodol am gynhyrchu Adroddiad Effaith Lleol? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Ydym, ond o ystyried C17 ni ddylai'r ffi yma fod yn un penodol - mae pob achos yn debygol o fod yn wahanol iawn ac mae'n bosib na fyddai ffi benodol yn ddigonol i bob cais am AELL.

C19	Ydych chi'n cytuno y dylai'r Awdurdod Cynllunio Lleol dderbyn taliad is, neu ddim taliad o gwbl, os nad ydynt yn cyflwyno'r Adroddiad Effaith Lleol o fewn yr amserlen a'r gofynion sylfaenol? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Sylwadau:
O ystyried yr atebion blaenorol yn ymwneud gyda pha mor rhesymol ac ymarferol yw'r cyfnod 5 wythnos ac beth fydd gofynion sylfaenol y AELL ni chredir fod yr hyn a fwriedir gyda taliad is neu dim taliad o gwbl yn rhesymol nac yn cynnig dim hyblygrwydd i amgylchiadau arbennig. Mae'n deg mynnu fod costau'r ACLL yn cael eu talu gan y bydd gofyn ymgymeryd â'r gwaith yma pan mae adnoddau eisoes yn brin ac efallai ar draul ceisiadau cynllunio eraill. Yn cymryd y bydd costau cynnal cyhoedduswydd a materion tu hwnt y AELL yn cael ei ad-dalu beth bynnag sydd wedi digwydd gyda amserlen yr AELL.

C20	Ydych chi'n cytuno na ddylai'r ymgeisydd dderbyn ad-daliad llawn os yw eu cais yn annilys? Os nad ydych, pam?	Ydwyf	Ydwyf (yn amodol ar sylw pellach)	Nac ydwyf
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Mae gofyn sicrhau fod taliad wedi ei dderbyn am unrhyw gostau wrth ddelio â'r achos</p>				

C21	A oes gennych unrhyw sylwadau pellach i'w gwneud o ran ein cynigion ar gyfer Datblygiadau o Arwyddocâd Cenedlaethol?	Oes	Nagoes
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Mae'r hyn sydd yn cael ei gynnig yn yr ymgynghoriad hwn yn ymddangos yn ddryslyd i'w weinyddu gan achosi dryswch i'r cyhoedd dros pwy sydd yn gyfrifol ac yn atebol am be. Mae hefyd yn ymddangos y bydd y broses yn rhoi pwysau ychwanegol ar ACLL pan mae adnoddau eisoes yn brin e.e. gweinyddu rhannau o'r broses, darparu ymatebion o fewn amserlenni penodol a chosb arainnol yn gysylltiedig iddynt ayb. Mae angen edrych yn fanylach ar sawl agwedd gan ar hyn o bryd credir bod gwendid ac ansicrwydd yn y broses o ymgymeryd a chyngor cyn cyflwyno cais, delio gyda chydsyniadau eilaidd, delio gydag amodau, negodi cytundebau 106 ac amodau ayb.</p>			

Nid wyf am i fy enw/neu gyfeiriad gael ei gyhoeddi gyda fy ymateb (ticiwch) <input type="checkbox"/>
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Cyfeiriad yr ymgynghoriad: LIC25023

Sut i Ymateb

Cyflwynwch eich sylwadau yn un o'r ffyrdd canlynol:

Ebost
Llenwch y ffurflen ymgynghori a'i hanfon at : planconsultations-g@wales.gsi.gov.uk Nodwch 'Datblygiadau o Arwyddocâd Cenedlaethol - LIC 25023' yn y llinell destun.
Post
Llenwch y ffurflen ymgynghori a'i hanfon at: Ymgynghoriad ar Ddatblygiadau o Arwyddocâd Cenedlaethol Y Gangen Penderfyniadau Y Gyfarwyddiaeth Gynllunio Llywodraeth Cynulliad Cymru Parc Cathays Caerdydd CF10 3NQ
Gwybodaeth ychwanegol
Os oes gennych unrhyw gwestiynau am yr ymgynghoriad hwn, cofiwch: ebostio: planconsultations-g@wales.gsi.gov.uk ; neu ffonio: Lewis Thomas ar 029 2082 3201



Ardal o Harddwch Naturiol Eithriadol
Area of Outstanding Natural Beauty

Eich cyf/Your ref:

Ein cyf/Our ref

Dyddiad/Date **8 August 2015**

Rhif union/Direct dial **01352 810614**

E-bost/E-mail **tony.hughes@denbighshire.gov.uk**

**Developments of National Significance Consultation
Decisions Branch
Planning Directorate
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ**

Dear Sir/Madam

WELSH GOVERNMENT CONSULTATION WG25023: DEVELOPMENTS OF NATIONAL SIGNIFICANCE

Thank you for consulting the Clwydian Range and Dee Valley AONB on this matter. The following observations are submitted on behalf of the Joint Committee following consultation with the Chair:

Responses to Consultation Questions 7 and 8.

“The AONB Joint Committee/Partnership is a significant interested party and an important part of the local community which can raise substantive planning issues for developers and decision makers at both pre and post-application stages. Although not a statutory consultee, the AONB Joint Committee and associated AONB Partnership is routinely consulted by the relevant planning authorities on development proposals within the area or which impact on the setting of the protected landscape. Welsh Ministers advised by the Planning Inspectorate (PINS) will in effect be the planning authority for Development of National Significance (DNS) applications, and the Joint Committee/Partnership would emphasise the importance of being fully engaged from the outset in major developments which may impact on the AONB. It is noted that the proposals envisage that it will be the role of local planning authorities to advise at pre and post-application stages as to which local organisations to consult (Paras 4.9 and 5.23), but to ensure consistency in the application of publicity and consultation arrangements in respect of AONB’s, the Joint Committee would suggest that notification of AONB Joint Committees/Partnerships should be an explicit requirement in guidance for developers and PINS in respect of publicity and consultation for DNS applications.”

Yours faithfully,

**Tony Hughes
For the Clwydian Range and Dee Valley AONB Joint Committee**

Cyd-Bwyllgor Cyngor AHNE Bryniau Clwyd a Dyffryn Dyfrdwy
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Clwydian Range & Dee Valley AONB Joint Advisory Committee
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Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Liz Green, Principal Health Impact Assessment Development Officer with contributions from Ed Huckle, Principal Environmental Public Health Scientist, PHE Centre for Radiation, Chemical and Environmental Hazards (Wales). With input from Huw Brunt (Consultant in Environmental Health Protection), Kristian James (Principal Environmental Public Health Specialist) and Sumina Azam (Consultant in Public Health)	
Organisation	Policy, Research and International Development, Public Health Wales	
Address	Hadyn Ellis Building Maindy Road Cardiff CF24 3HQ	
E-mail address	liz.green@wales.nhs.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

The consultation provides a proposed list of DNS thresholds in Annex A, "reflecting infrastructure projects for planning applications that fall outside Section 14 of the Planning Act 2008 as far as they required planning permission and where responsibility for determination currently rests with LPAs in Wales".

Whilst the list is clear both in types of developments and associated thresholds we note that there some significant gaps in the list. Although there may well

Consultation reference: WG25023

have been prior rationale to the proposed list there is no mention of:
Major road/highway networks (e.g. M4 relief road)
Large scale coal/mineral extraction projects
Large scale commercial/retail/leisure complexes (e.g. former Anglesey Aluminium site or Circuit of Wales)
Hydro electric, shale gas extraction and other major energy producing developments
Extensive wind farm developments (up to 50MW total output)
New build railways are referred to in Annex A, but any significant new work such as electrification of railway lines is not

We would expect such developments to be part of any final listing of DNS thresholds.

We recognise that some of these may be best placed to be considered at a local level rather than being referred as a DNS, however, if this is the case then it needs to be made explicit why these are not included.

It is understood that there will continue to be a set criteria for projects which will be determined by the Secretary of State under the NSIP regime in England. Clarification and clear guidance is required as to when appropriate consultees will be engaged. For example, it is proposed that onshore generating stations with a capacity between 25MW and 50MW will be included under DNS and those projects with a greater capacity will continue to fall under the existing NSIP regime. There is no information contained within the consultation how this information will be conveyed to consultees and LPAs, as the consultee lists for the two regimes could conceivably be different. There is potential for confusion and possible time delays, should there not be a robust mechanism in place.

Currently PHW is not statutory consultee under the Planning Act 2008. However it is important that Public Health Wales, as the primary public health service in protecting and improving the health and wellbeing of the population in Wales, are engaged in the DNS regime.

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
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Consultation reference: WG25023

		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Yes, this is a sensible approach and all work can be considered together along with any cumulative impacts which make arise from the development work on the local communities. However, clarification as to how ‘consultees’ (as opposed to statutory consultees) will be engaged is not explained.</p>				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Consultation reference: WG25023

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We welcome early engagement between developers and stakeholders not just for timeliness purposes, but more importantly that local issues and baseline positions can be considered. It is important that due consideration is given to the health and welfare of local communities, including both positive and negative impacts of any potential development. We would expect PHW to be engaged early in the process as possible in order to provide constructive comments in terms of public health.</p> <p>The consultation states “it is essential that communities and consultees are aware of proposed developments which affect them at the earliest possible stage....consultees may bring to the attention of developers vital information and considerations which were previously unknown to them”. Again, this underlines the importance of having PHW included as a health consultee in the pre-application process.</p> <p>We welcome the proposals that a production of a pre-application report is required enabling PINS and other parties to ascertain whether appropriate consultation has been undertaken prior to submission of the application. A requirement of the report is to include copies of responses from consultees, and the developer must indicate how these have been taken into account. Again it is important that PHW has sight of these reports and that there is a clear procedure in engaging with consultees such as PHW.</p> <p>Pre-application publicity should include information on PINS website for purposes of transparency and consistency.</p>				

Q8	Do you agree with our proposals for the advertisement of an application for DNS?	Yes	Yes (subject to	No
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Consultation reference: WG25023

	If not, why not?		comment)	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We note the 'partnership approach' between PINS and LPAs, however we note in Table A there is no mention that the PINS website will also be part of the advertisment process. Again we would stress that for consistency and transparency purposes all activity should be placed on the PINS website along with relevent links to LPAs involved in specific applications.				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: We note that Public Health Wales is not included on the list of statutory consultees for DNS. In view of the above comments, we would like to see this amended and for PHW to be added to this list. The consultation does not provide a specific reason why 5 weeks has been chosen. Annex C indicates a validation of 6 weeks for a DNS yet less time for consultation and production of LIR, which is likley to include engagement with consultees. Although it is acknowledged that Welsh Minsiters or PINS have the ability to pause the timeframe, it is difficult to put a blanket timeframe on applications. By their very nature some applications will be more resource intensive than others and therefore we would want assurance that should a consultee require further time, that this will be granted. We would not expect				

Consultation reference: WG25023

this to be commonplace but it is important the a comprehensive and appropriate response is made by PHW. If there is the opportunity to amend this timeframe then we would welcome a slightly longer timescale.

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: No comment				

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

Comments:
This would make representations more focused and more concise.

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
We agree in principal as long as these are made available to view by those who cannot or do not wish to access the information online.

All the information must be comprehensively and clearly posted online and the weblinks must be widely advertised and available for those who wish to access it. We would recommend both the applicant and PINS display the appropriate application information with clear signposting.

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
The consultation states that Local Impact Reports (LIRs) will include as part of minimum specification a ‘topic based technical assessment’ which are to be covered at the discretion of the LPA. We feel that this is too vague and that a mandatory minimum specification for LIRs is stipulated. A standard template could be used which will aid in the consistency of approach in DNS. This should include the consideration of public health and dialogue with Public Health Wales. Furthermore, we believe that a broad Health Impact Assessment which assesses both physical and mental health and wellbeing impacts should be a requirement as part of the Local Impact Reporting process. It should follow the process described in the Welsh HIA guidance ‘HIA: A Practical Guide’ (Wales HIA Support Unit, 2012).

HIA is acknowledged as a systematic, yet flexible process. It provides a practical method of assessing both the potential positive and negative impacts of a proposal or plan on health and well-being and can provide ways in which opportunities for health gain can be maximized and risks to health minimised. HIA considers health in its broadest sense, using the wider determinants of health as a framework through which to identify these impacts via changes to lifestyles, community relationships, labour markets, public services and

Consultation reference: WG25023

amenities and other aspects of the social and economic environment. It also highlights any inequalities in the distribution of these in the general population - and on vulnerable groups (such as ethnic minority groups, people with disabilities and older or young people) in particular. It has a number of benefits and can be used to support decision making and provide opportunities for health improvement.

We recognise that as part of development planning processes, statutory Sustainability Appraisals (SAs) and Environmental Impact Assessments (EIAs) are conducted for certain types/thresholds of development and these are required to consider human and population health within them. However, these only routinely consider environmental health risks and not broader social and community health impacts nor any positive impacts or identify areas for improvement.

Whilst including the term 'public health' is helpful, it does not specify the scope of the HIA and therefore the supporting guidance would need to explicitly state that any HIA undertaken would be required to follow the Welsh HIA guidance. The Wales HIA Support Unit would be happy to assist in drafting any wording for this.

It is also unclear how such assessments are used in any decision making process. We would like the LIR to have the facility to make recommendations based on these assessments.

If PHW were to be included as a statutory consultee, and should PHW provide public health comments, we would wish any recommendations to be addressed. If it remains, as stated, that the LIR will not contain recommendations then there needs to be some other mechanism to enable this to happen.

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: See our comments to Q.10.</p> <p>5 weeks is a very tight timeframe particularly should voluntary impact assessments be required and need to be reported on. 8 - 12 weeks would be more appropriate.</p>				

Consultation reference: WG25023

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: At a time of austerity when Local Authority and LPA resources are becoming ever tighter and officers are expected to perform regulatory duties with less support timeframes may need to be rethought in order to ensure a robust LIR process and appropriate consultee engagement. 5 weeks is a very constrained timeframe.				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

Comments:
No comment

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

We believe that HIA would be particularly valuable as part of the pre-application process and consultation phase, when much of the community and stakeholder engagement will occur.

A robust HIA is evidence based and it can provide an important role in informing the decision making process and the delivery of DNS. It involves local stakeholders and can provide a forum for discussion and a vehicle for consultation with communities. This can add value by providing information and context about the potential impacts and effects on local people.

If would be useful to clarify where decisions on applications will be held e.g. whether it will be on a Welsh Government website or the PINS website. In addition, clarification is required as to which website the Inspectorate will use for DNS so as to remove confusion to the current National Infrastructure Planning webpages.

Finally, the consultation has set a target of early 2016 to enable the DNS process to be operational. In view of this timescale we would ask to be kept up to date on developments, so that PHW can make provision to engage in the process which could have resource implications for WHIASU, Local Public Health and health intelligence teams.

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201



Developments of national significance

Response of the Welsh Environmental Services Association

The Welsh Environmental Services Association (“WESA”) is an arm of Environmental Services Association (ESA): the trade association representing the UK’s waste and secondary resource industry, a sector with an annual British turnover of around £11 billion. Driven by EU environmental law, WESA is a leading partner in Wales’s transformation from a disposal to a zero waste society. Our Members recover both value and energy from the Wales’s waste whilst protecting the environment and human health.

WESA is broadly supportive of the proposed new regime for determining the largest, most complex planning applications but suggests a more flexible alternative to the proposed arbitrary thresholds. Commenting on the overall merits of the proposed scheme has proved challenging in places without an indication of the likely fees that would apply.

Q1 Do you agree with the proposed thresholds and categories of development set out in Annex A? If not, why not?

WESA is concerned by the unintended consequences of imposing arbitrary thresholds for triggering an application to Welsh Ministers, which in some cases may discourage development opportunities.

On the one hand, the thresholds for qualifying energy generating infrastructure discriminate against meritorious EfW facilities not large enough to meet the 25MW threshold. Conversely, with reference to hazardous waste, the threshold is too low: imposing the more expensive development of national significance (DNS) regime on small items of infrastructure would render them wholly uneconomic (a 30k tonne contaminated soil washing plant could hardly be considered nationally significant infrastructure).

Annex A (hazardous waste facilities) seems quite explicit that an increase in annual capacity at an existing hazardous waste facility above the qualifying thresholds would invoke an application to Ministers. However, it is unclear whether an extension of planning permission (eg extending a site’s lifespan) or landfill void would trigger the DNS process in situations where such an extension represented a continuation at current input, even where this would clearly be of national significance. Clarity on this point is needed so that developers would have certainty as to under which planning regime a potential development would fall.

More generally, Annex A would benefit from clarity on this same issue: an amendment to some categories of qualifying infrastructure would seem to trigger the DNS regime, but not for others. We presume, for example, that an alteration to an existing energy generation station would not constitute national development.

It is for such reasons that WESA suggests that any threshold should be *advisory*, providing applicants with an indication of the type and size of development that may be expected to qualify as DNS, but

ultimately developers should be offered discretion to choose how an application should be handled. A developer, upon review of relevant financial and practical considerations, should be empowered to choose the most appropriate application route (i.e. national or local) rather than potentially having to design a scheme to meet a threshold.

Q2: Do you agree with this proposed approach for determining secondary consents? If not, why not?

We see merit in a 'one stop shop' allowing those secondary consents associated with the DNS scheme to be determined by PINS at the same time as the primary application. However, we note a slight contradiction in the consultation proposals: while paragraph 3.3 appears to suggest that applicants would have full discretion on whether to utilise the 'one stop shop' approach, paragraph 3.6 notes that Welsh Ministers would have the power to direct that any application for secondary consent, not already submitted by the applicant, was determined alongside the principal DNS application.

Q3: Do you agree that the Inspector may determine the procedure for secondary consents? If not, why not?

Yes: however, WESA suggests that the examination process (and not just for secondary consents) should rely upon written representations as much as possible, with issue-specific hearings only convened if a particular issue required more detailed consideration. While there may well be a tendency by third parties to press for open floor hearings to discuss all matters associated with a DNS scheme this may revert the process back to 'planning by inquiry' and could jeopardise completion of examination to the agreed timetable.

Q4: Do you agree with the proposed list of secondary consents in Annex B? If not, why not?

While supportive of the principle of a unified consent regime for DNS, the Welsh Government should avoid overwhelming PINS with the potential transfer of applications from existing consenting authorities.

Q5: Do you agree with the minimum requirements for the notification of a DNS? If not, why not?

While we have no comment on the notification requirements, an indication of the likely 'notification fee' would be helpful.

Q6: Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?

There seems little valid reason to impose a 12 month time limit to submit a DNS application. With attempts to front-load the DNS application process there may be numerous reasons why submissions might be delayed (ie modification of DNS scheme in response to pre-application consultation). Applicants should have ample time to respond to these thoroughly without seeking to complete the process within an arbitrary deadline.

Q7: Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?

WESA agrees that it is important for pre-application consultation to take place on the largest and most significant development proposals, such as DNS schemes, and indeed most responsible applicants have been doing so for a number of years. WESA's Members often exceed their statutory obligations to consult both before and during the planning process, for instance through site liaison committees or establishing partnership projects with local groups.

Further detail would be welcome on how much weight PINS would attach to the pre-application consultation reports. Failure to submit a report of pre-application consultation responses with the application, or modify proposals following this process should not be grounds for refusing an application. 'Consultees' for the purpose of pre-application consultation – rather than statutory consultees, could refuse to engage in the consultation process simply as a means of delaying submission of the planning application.

The consultation correctly acknowledges that prompt responses from statutory consultees are essential for overall efficient delivery of the system. However, we see little merit in prescribing a 28 day limit (or longer) for receipt of comments from statutory consultees if there are no provisions for its enforcement, or sanctions imposed for exceeding this limit. Similar timescales under the existing planning system are routinely exceeded.

Q8: Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?

Local authorities would probably be better placed than the applicant to inform relevant local councillors of the proposed development.

Q9: Do you agree with our proposals regarding statements of common ground? If not, why not?

The proposal to remove Statements of Common Ground from the DNS regime seems somewhat at odds with wider proposals to front load the planning application process and to allow the examination process to focus on the remaining, most contentious issues.

Q10: Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?

Five weeks appears a somewhat excessive timeframe for consultation responses, particularly as statutory consultees should already be aware of the scheme (through the previous pre-application consultation process) and with ample time to prepare responses therefore having already been afforded. Our comments above on the need to properly enforce deadlines from statutory consultees takes on greater significance should, notwithstanding our concerns, a 5 week deadline is applied.

Q11: Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?

WESA welcomes this provision, which provides some much needed flexibility in the determination process, and allows developers to respond to any further representations received following consultation with statutory consultees.

We note that this is one of a number of instances in which PINS could "stop the clock" during the examination process to allow for further submission of amended proposals. Other such pauses in the

determination process are noted in paragraph 5.57 and we are concerned that PINS could “stop the clock” where there was a significant change or review of national policy or the relevant local plan. Such measures are a hostage to fortune and could potentially add lengthy delays into the determination process. We suggest that application proposals are considered against the *existing* policy framework, and with relevant weight attached to emerging plans or policy.

Q12: Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.

10 days would seem an appropriate timeframe.

Q13: Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?

We fully understand the need for brevity, but explanations of necessarily technical or detailed matters associated with complex NSD schemes may be constrained by imposing a word limit.

Q14: Do you agree that the applicant is only required to submit paper copies of applications for DNS to the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?

Yes, there should be no need to make any further provision towards paper copies beyond this requirement. Electronic submissions should be encouraged where appropriate.

Q15: Do you agree with the minimum requirements for Local Impact Reports? If not, why not?

No comment

Q16: Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales

No comment

Q17: Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers’ (and the appointed person, the Planning Inspectorate) costs in carrying out the work? If not, why not?

WESA understands the principle of recovering costs proportionate to the resources allocated by PINS in processing DNS applications, however, it is difficult to comment fully on the proposed fee regime without an indication of the likely fees and hourly rates that would apply.

However, when setting the fees structure, the Welsh Government should avoid imposing disproportionate costs on development proposals particularly, as noted above, when the proposed thresholds for qualifying (hazardous waste) infrastructure are so low (ie planning costs could form a greater proportion of total project costs).

We note that the proposed fees structure has the potential to introduce much variation in the application fee incurred, depending on PINS’ chosen examination procedure, and that the examination process would not be clarified until submission of an application. It would be entirely unrealistic for PINS to expect a developer to submit an application without full knowledge of the

eventual fees. WESA therefore suggests that through pre-application consultation with PINS, the examination process is agreed in principle with the developer.

Q18: Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?

Yes: this would be an appropriate incentive to ensure local authorities submit local impact reports on time and to the required specification.

Q19: Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?

Yes.

Q20: Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?

WESA continues to note examples (through the local planning regime) of local authorities adopting detailed and exhaustive local information requirements which are slavishly adhered to by risk adverse authorities during the validation of planning applications, and which often requires applicants to supply information of little relevance to the application. Such can often form the grounds for refusing to validate an application, and the Welsh Government should seek to avoid replicating this through the proposed DNS regime.

We therefore suggest that the proposed regime should include provision to allow a developer to challenge information requested by PINS at the validation stage, and when successful, it would seem inappropriate to withhold the fee.

We offer further comment on the proposals for validation:

The Welsh Government correctly acknowledges that securing agreement on planning obligations can often be a long and cumbersome process resulting in delay and uncertainty. WESA Members note that it is the post-committee process that is so often the crux of the matter with local authorities deploying resources for s106 agreements *after* resolution to grant consent. If determination timescales have already been missed (as is so often the case for waste management planning applications) there is often little incentive for local authorities to complete the s106 agreement before issuing the decision notice. Planning officer resources tend to be diverted elsewhere and to the processing of other planning applications, driven by the need to meet statutory determination periods.

We therefore agree that greater emphasis should be placed on negotiating s106 agreements earlier in the process and, as suggested by the Welsh Government, pre-application consultation would be a useful starting point. Some form of assistance or measure to help local authorities focus resources (and minds) on a process normally embarked upon much later in the application process would be useful. Greater standardisation of procedures or a requirement to negotiate s106 draft heads of terms would also help streamline the process

However, this is not to suggest that “s106 statements” should form an application *validation* requirement: precise details on key points that need to be addressed through s106 are unlikely to be

fully known until the application has been accepted and considered. Assessing the quality of such statements – for validation purposes – would likely be subjective, potentially opening up debate on whether the applicant made enough progress, at this early stage, in setting out a framework for agreeing s106 obligations.

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Ross Anthony	
Organisation	The Theatres Trust	
Address	22 Charing Cross Road, London, WC2H 0QL	
E-mail address	planning@theatrestrust.org.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input checked="" type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Consultation reference: WG25023

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Consultation reference: WG25023

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Annex E - List of Consultees Please note our full name is 'The Theatres Trust'			

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Tim Howard	
Organisation	Chartered Institute for Archaeologists (CIfA)	
Address	Miller Building University of Reading Reading RG6 6AB	
E-mail address	tim.howard@archaeologists.net	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Please see accompanying letter for detailed response.				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments:			

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201



Developments of National Significance Consultation
Decisions Branch
Planning Directorate
Welsh Government
Cathays Park
Cardiff CF10 3NQ

planconsultations-g@wales.gsi.gov.uk

12 August 2015

Dear Mr. Thomas,

Consultation on Developments of National Significance¹

Thank you for the opportunity to comment on these detailed proposals.

The Chartered Institute for Archaeologists

The Chartered Institute for Archaeologists (CIfA) is the leading professional body representing archaeologists working in the UK and overseas. We promote high professional standards and strong ethics in archaeological practice, to maximise the benefits that archaeologists bring to society, and provide a self-regulatory quality assurance framework for the sector and those it serves.

CIfA has over 3,250 members and more than 70 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors.

CIfA's Wales / Cymru Group has over 300 members practising in the public, private and voluntary sector in Wales.

Developments of National Significance

General

CIfA supports Welsh Government in its objective to ensure that development and use of land contributes towards sustainable development by improving the economic, social, environmental and cultural well-being of Wales.

The Institute also endorses the aim to ensure that planning applications are determined in a proportionate way, dependent on their likely benefits and impacts, provided always that such an approach takes full account of the impacts of development upon the historic environment and the contribution which the historic environment makes to sustainable development.

CIfA responded to the Positive Planning consultation by letter dated 25 February 2014 and to the consultation on Frontloading the Development Management System by letter dated 15 January 2015. Copies of those responses accompany this letter for ease of reference.

Specific Questions

Q1: Do you agree with the proposed thresholds and categories of development set out in Annex A? If not, why not?

1.1 No comment (see original comments in response to questions 7 to 9 of CIfA's response to the Positive Planning consultation).

Q2: Do you agree with this proposed approach for determining secondary consents? If not, why not?

2.1 Yes, provided that applications for listed building and scheduled ancient monument consent, when dealt with as secondary consents, are assessed as rigorously and with as much third party consultation as a stand-alone application.

Q3: Do you agree that the Inspector may determine the procedure for secondary consents? If not, why not?

3.1 Yes, provided that, in relation to applications for listed building and scheduled ancient monument consent, the Inspector has access to sufficient expertise with regard to the historic environment to enable him or her properly to assess the appropriate procedure for determining such applications.

Q4: Do you agree with the proposed list of secondary consents in Annex B? If not, why not?

4.1 Yes, provided that, in relation to applications for listed building and scheduled monument consent,

- the Planning Inspectorate, in carrying out its functions, has, or has access to expertise in relation to the historic environment
- such applications are assessed as rigorously and with as much third party consultation as a stand-alone application.

Q5: Do you agree with the minimum requirements for the notification of a DNS? If not, why not?

5.1 Yes.

Q6: Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?

6.1 Yes.

Q7: Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?

7.1 Yes. ClfA recognises the importance of early and effective engagement with communities and with statutory consultees. Consultation and engagement is, however, also needed with other stakeholders with expertise in the historic environment.

Q8: Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?

8.1 No comment.

Q9: Do you agree with our proposals regarding statements of common ground? If not, why not?

9.1 Yes, insofar as it is accepted that an obligation to produce Statements of common ground within a given timescale *'can place pressure on LPAs [and] statutory consultees'* (paragraph 5.18 of the consultation document) and should not be allowed to pressurise such parties to remove issues from consideration without adequate analysis. Nonetheless, as indicated in previous responses, ClfA remains supportive of the judicious use of Statements of common ground as a means of concentrating attention and resources upon the consideration of live issues. ClfA would be happy to contribute (in relation to the historic environment) to the production of guidance which addresses Statements of common ground (see paragraph 5.20 of the consultation document).

9.2 Another means of clarifying the minds of the parties at an early stage in the process is the requirement to submit a 'section 106 statement' (paragraph 5.11 of the consultation document). ClfA not only supports this proposed requirement but would extend it to include a requirement to submit draft conditions.

9.3 The imposition of archaeological conditions upon planning permissions is a key mechanism to secure public benefit in relation to the historic environment. Welsh Ministers and the Planning Inspectorate should work closely with local planning authorities and the Welsh Archaeological Trusts to ensure that

- conditions are formulated clearly, recognising the nature of archaeological evidence and the multi-staged nature of most programmes of archaeological work (including post-excavation analysis, archiving and dissemination)
- conditions are effective to secure the carrying out of all stages of necessary archaeological work.

See further in this regard the Institute's response to Welsh Government's consultation on The Use of Planning Conditions for Development Management submitted on 24 April 2014.

Q10: Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?

10.1 This may generally be an appropriate timeframe. However, some cases may require further time to provide a meaningful and constructive response and there should be flexibility to allow for this.

Q11: Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?

11.1 Yes.

Q12: Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.

12.1 Yes, provided that such a timeframe allows the Planning Inspectorate sufficient time, where necessary, to consult appropriate experts as to issues arising in relation to the historic environment and how they might best be resolved.

Q13: Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?

13.1 Only if there is a discretion to allow that limit to be exceeded in the (hopefully rare) instances where this is necessary.

Q14: Do you agree that the applicant is only required to submit paper copies of applications for DNS to the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?

14.1 Yes, provided that all material is available online.

Q15: Do you agree with the minimum requirements for Local Impact Reports? If not, why not?

15.1 Yes, save that the Local Impact Report should also include (as a minimum) details of entries on the appropriate Historic Environment Record (or Records).

Q16: Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.

16.1 This may generally be an appropriate timescale. However, some cases may require further time fully to address the issues and there should be flexibility to allow for this.

Q17: Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and the appointed person, the Planning Inspectorate) costs in carrying out the work? If not, why not?

17.1 Yes.

Q18: Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?

18.1 No. The Local Planning Authority should receive fee that fully reflects the time and resources required in each case to produce the report.

Q19: Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?

19.1 No. Local Planning Authorities and the Welsh Archaeological Trusts that advise them are under continuing financial pressure. If it is a lack of resource which leads to the Local Planning Authority's failure to submit a Local Impact Report on time, this would be compounded by penalising the authority financially.

Q20: Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?

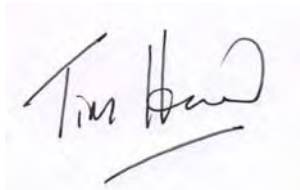
20.1 Yes.

Q21: Do you have any further comments to make in relation to our proposals for DNS?

21.1 No.

If there is anything further that I can do to assist please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tim Howard', with a horizontal line underneath.

Tim Howard LLB, Dip Prof Arch
Senior Policy Advisor, Chartered Institute for Archaeologists

¹<http://gov.wales/consultations/planning/developments-of-national-significance/?lang=en>



Planning Bill Team
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

25 February 2014

Dear Sir / Madam,

Positive Planning: Proposals to reform the planning system in Wales (WG20088)

Thank you for the opportunity to comment on the proposals in this consultation paper.

The Institute for Archaeologists

The Institute for Archaeologists (IfA) is a professional body for the study and care of the historic environment. It promotes best practice in archaeology and provides a self-regulatory quality assurance framework for the sector and those it serves.

The IfA has over 3,000 members and more than 70 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors. IfA's Wales / Cymru Group has over 300 members, many of whom practise in the public, private and voluntary sector in Wales.

Positive Planning: Proposals to reform the planning system in Wales

General

IfA welcomes Welsh Government's aims to reposition the planning system in Wales '*as a tool to manage change in the public interest*', to clarify and streamline the system and to enable '*appropriate development*'. Such development must be sustainable, giving equal weight to social, economic and environmental considerations (including the historic environment).

Indeed, the planning system plays a key role in the management and protection of the historic environment (which includes archaeological remains both above and below ground). That role is not confined simply to designated assets. Over 90% of the historic environment is undesignated (i.e. not specifically protected by listing, scheduling or some other statutory designation) and is, for the most part, solely protected as a 'material consideration' in the planning process.

Consequently, IfA welcomes the acknowledgement by the Minister of Housing and Regeneration of the need to integrate these proposals with the proposals in other nascent Bills including the Heritage Bill. Some measures (such as the suggested duty on local planning authorities to maintain or have access to a Historic Environment Record (HER) supported by appropriate expertise – a suggestion which IfA fully endorses) could appear in planning or heritage legislation and the important thing is for the Bills to be coordinated.

Although IfA supports many of the proposals in the consultation paper, they will, however, not be sufficient to improve the management and protection of the historic environment if sufficient

resources are not made available to the Welsh Archaeological Trusts and local authority conservation services fully to engage in the planning process.

Specific Questions

Q1. Do you agree that the proposed remit for a Planning Advisory and Improvement Service will help LPAs and stakeholders to improve performance?

1.1 Yes, provided that that remit includes the historic environment. The Service, itself, should have, or have access to, historic environment expertise.

1.2 The Service should help planners and members to improve their knowledge and understanding of the historic environment and its significance in the planning system. However, 'planners' are not the only practitioners involved in the planning process. The Service should help and encourage historic environment practitioners (who play a key role in the management of the historic environment) to enhance their skills and knowledge.

1.3 IfA fully endorses the statements at paragraph 3.14 of the consultation document that

'...professional bodies need to fully recognise and support the planning reform agenda in Wales through education courses and opportunities through continuing professional development focused on the Welsh planning system. Individuals need to keep their skills up to date and adopt a positive attitude towards change.'

1.4 The Institute welcomes the opportunity to work with Welsh Government and other stakeholders further to develop its own CPD and training mechanisms (see <http://www.archaeologists.net/profdevelopment>) in this regard, and to provide or facilitate training for others. Those not directly involved in the heritage sector may not need to attain levels of skill and knowledge required for a historic environment practitioner, but still need to have a basic knowledge and understanding of the historic environment and its significance in the planning system. Basic training of planners and members, however, does not remove the need for archaeological and wider historic environment expertise in the assessment of planning proposals.

Q2. Do you agree that existing Welsh Government support arrangements for the built environment sector in Wales should be reviewed?

2.1 Yes. This should include support arrangements for the historic built environment sector.

Q3. Do you agree that competency frameworks should be prepared for planning practitioners and elected representatives to describe the skills, knowledge and behaviours necessary to deliver planning reform?

3.1 Yes. The frameworks for planning practitioners and elected representatives should include some knowledge and understanding of the historic environment and its significance in the planning system, but the frameworks should also embrace historic environment practitioners involved in the planning process. Archaeological and wider historic environment skills and knowledge are crucial for the management and protection of the historic environment and the operation of the wider planning system.

3.2 The accreditation of archaeological skills and knowledge through membership of IfA at professional grades should be recognised in competency frameworks.

Q4. Do you agree that the NDF will provide a robust framework for setting national priorities and aid delivery?

4.1 Yes, provided that it evenly balances social, economic and environmental considerations and allows meaningful, detailed assessment of environmental considerations at a later stage.

Q5. Do you agree that Planning Policy Wales and Minerals Planning Policy Wales should be integrated to form a single document?

5.1 Yes, provided that such integration does not lead to any reduction in the level of protection for the historic environment and that sufficient guidance is available in supporting documents.

Q6. Do you agree that a core set of development management policies should be prepared for consistent application by all local planning authorities?

6.1 Yes, provided there is sufficient flexibility in specific cases to depart from those policies, if justified.

Q7. Do you agree that the proposed development hierarchy will help to ensure that planning applications are dealt with in a proportionate way dependent on their likely benefits and impacts?

7.1 IfA supports the principle of dealing with planning applications *'in a proportionate way dependent on their likely benefits and impacts'* (paragraph 4.36 of the consultation document). However, relatively small-scale development can have disproportionate, adverse effects on the historic environment and particularly on buried archaeological remains. Even if development constitutes 'local development' within the proposed hierarchy (in accordance with the thresholds in Annex B of the consultation document) there may still be instances where there is a significant impact upon the historic environment. Local planning authorities must not be constrained by policy or statute from requiring sufficient information and undertaking appropriate assessment adequately to assess the nature and extent of that impact.

Q8. Do you agree with the proposed categories and thresholds for Developments of National Significance set out in Annex B?

8.1 Yes.

Q9. Do you agree with the proposed categories and thresholds for Major Developments of set out in Annex B?

9.1 See paragraph 7(1) above.

Q10. Do you agree DNS applications should be subject to mandatory preapplication notification, and consultation?

10.1 Yes. Pre-application engagement is a key means to ensure that the historic environment is respected in the formulation of development proposals.

Q11. Do you agree that a fee should be charged for pre-application advice for prospective DNS applications?

11.1 Yes. Such fees (or part of them) should be used to support the expertise required to provide that advice (for instance, to support the work of Cadw and others with regard to the historic environment).

Q12. Do you agree that the Planning Inspectorate Wales is the most appropriate body to undertake the processing of a DNS application?

12.1 Yes. Nevertheless, it is important that the Planning Inspectorate Wales, in carrying out its functions, has, or has access to, expertise in relation to the historic environment.

Q13. Do you agree that only one round of amendments to an application for DNS should be permitted after it has been formally registered?

13.1 No comment.

Q14. Do you agree with the proposals for handling connected consents?

14.1 Yes, provided that applications for listed building and scheduled ancient monument consent, when dealt with as connected consents, are assessed as rigorously and with as much third party consultation as a stand-alone application.

Q15. Do you agree that examination should follow a similar procedure to that proposed for call-ins and appeals?

15.1 Yes.

Q16 Do you agree with the proposed division of responsibilities between the Welsh Ministers and the local planning authority at the post-determination stage?

16.1 Yes. The involvement of local planning authorities (advised as regards the historic environment by the Welsh Archaeological Trusts and local authority conservation staff) is of particular importance in respect of the variation, removal and discharge of conditions and enforcement.

16.2 The imposition of archaeological conditions upon planning permissions is a key mechanism to secure public benefit in relation to the historic environment and their early discharge can undermine important archaeological work. Welsh Ministers and the Planning Inspectorate Wales should work closely with local planning authorities and the Welsh Archaeological Trusts to ensure that

- conditions are formulated clearly, recognising the nature of archaeological evidence and the multi-staged nature of most programmes of archaeological work (including post-excavation analysis, archiving and dissemination)
- conditions are effective to secure the carrying out of all stages of necessary archaeological work.

16.3 IfA will be submitting a response to Welsh Government's current consultation on The Use of Planning Conditions for Development Management

Q17. Do you agree that the statement of case and draft statement of common ground should be produced when submitting an appeal?

17.1 Yes.

Q18. Do you agree that the Planning Inspectorate should decide how to handle the examination of an appeal?

18.1 Yes, provided that the Planning Inspectorate has access to appropriate expertise when deciding how to handle appeals involving issues affecting the historic environment.

Q19. Do you agree no changes should be made to the content of an application once an appeal has been submitted?

19.1 Yes.

Q20. Do you agree with the proposal for the Welsh Ministers to initiate awards of costs?

20.1 No comment.

Q21. Should fees be introduced to cover the costs of the Welsh Ministers associated with an appeal?

21.1 No comment.

Q22. Do you agree that a Commercial Appeals Service (CAS) should be introduced?

22.1 No comment.

Q23. Do you agree that local planning authorities should be merged to create larger units?

23.1 IfA would not oppose their merger provided that such mergers would not lead to any further reduction in the overall resources available to local authority conservation services and the Welsh Archaeological Trusts (both of which are already hard-pressed in terms of funding).

Q24. Do you think that a National Park Authority should continue to have responsibility for planning in its area?

24.1 Yes, provided that they have access to appropriate expertise on the historic environment.

Q25. Do you agree that strategic development plans should only be prepared in certain areas?

25.1 No comment.

Q26. Do you agree that the scope of SDPs should be limited to the key issues identified in paragraph 5.29?

26.1 SDPs should specifically include strategic policies and priorities for the historic environment.

Q27. Do you agree that a partnership between local planning authorities and social, economic and environmental stakeholders should oversee preparation of SDPs?

27.1 Yes. This should include stakeholders in relation to the historic environment.

Q28. Do you agree that a light touch LDP focussing on matters of local significance should be prepared in areas where there is a SDP?

28.1 No. LDPs should be sufficiently comprehensive and rigorous to ensure that all material considerations (including those relating to the historic environment) are addressed in the development management process.

Q29. Do you agree with the essential elements of a good planning service identified in Annex A?

29.1 The performance indicators should include indicators relating to the historic environment, such as the number of local authorities having access to an up-to-date HER supported by appropriate

expertise (if that does not become a statutory duty) and the percentage of archaeological conditions which are fully complied with.

Q30. Do you agree that each LPA should produce and publish an annual performance report to agreed standards?

30.1 Yes.

Q31. Do you agree that where a LPA is designated as poorly performing there should be an option to submit planning applications for major development to Welsh Ministers?

31.1 Yes. However, if problems arise largely or wholly due to lack of resource on the part of local planning authorities, IfA would be concerned to see that such problems were not compounded by a further loss of fees.

Q32. Do you agree that Welsh Ministers should be able to direct preparation of a joint LDP?

32.1 Yes.

Q33. Do you agree that LDPs should plan for at least 15 years ahead and have a set end date beyond which they cease to be the development plan?

33.1 LDPs should plan for at least 15 years ahead, but the proposal that they cease to be the development plan after a set date may lead to a policy vacuum and reduce protection for the historic environment if development plan policies lose their status as such with nothing to replace them.

Q34. Do you agree that LPAs should work with town and community councils to produce place plans which can be adopted as supplementary planning guidance?

34.1 Yes.

Q35. Do you agree that where a development proposal accords with an allocation in an adopted development plan a new planning application process should be introduced, to ensure that only matters of detail such as design and layout are considered?

35.1 No. Even when sites are allocated in development plans, significant issues can remain as regards the impact of development upon the historic environment. These issues need to be fully addressed at the application stage.

Q36. Do you support the proposal to allow a right of appeal against an LPA not registering a planning application?

36.1 Yes.

Q37. Should the requirement for mandatory design and access statements be removed?

37.1 Before any such decision is taken, the content of Design and Access Statements should be reviewed insofar as it relates to the historic environment.

Q38. Should the requirement to advertise planning applications for certain developments in a local newspaper be removed?

38.1 Only if suitable alternative means of communication are available.

Q39. Should there be any local variation within a national scheme of delegation for decision making on applications?

39.1 No comment.

Q40. Do you agree that a minor material change should be restricted to "one whose scale and nature results in a development which is not substantially different from that which has been approved"?

40.1 No. It should be restricted to *"one whose scale and nature results in a development which is not substantially different from that which has been approved and has no significant, additional impact"* (my underlining). (See the comments at paragraph 7.1 as to the potentially disproportionate effect on the historic environment of relatively small-scale development or changes.)

Q41. Do you agree that the proposals strike a balance between the need to preserve land used as Town and Village Greens and providing greater certainty for developers?

41. No comment.

Q42. Do you agree that the proposals will reduce delay in the planning enforcement system?

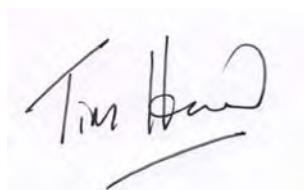
42.1 Yes.

Q43. Do you agree with the introduction of temporary stop notices to the planning enforcement system in Wales?

43.1 Yes.

The Institute would be delighted further to contribute to the formulation of a Planning Bill for Wales. In the meantime, if there is anything further that I can do to assist please do not hesitate to contact me.

Yours sincerely,



Tim Howard LLB, Dip Prof Arch
Policy Advisor



Development of National Significance
 Consultation
 Decisions Branch
 Planning Directorate
 Welsh Government
 Cathays Park
 CARDIFF
 CF10 3NQ

Environment & Chemistry

Your ref. -
 Your letter -
 Our ref. CONS/WG25023/NBKR
 Contact Neil Richardson
 Phone 01793 893382
 Fax 01793 894532
 Email neil.richardson@rwe.com

12 August 2015

Consultation reference WG 25023: Developments of National Significance Response by RWE Generation UK plc on behalf of RWE Group companies operating in Wales

Dear Sir or Madam,

I attach our response to the above consultation, which is submitted by RWE Generation UK plc on behalf of the RWE Group companies operating in Wales. These companies include:

1. RWE Generation UK plc produces over 10% of the UK's electricity from our seven gas, coal and oil-fired power stations. We also manage a portfolio of gas and biomass fired combined heat and power plants across the UK.
2. RWE Npower Group plc which supplies gas and energy services to over 6.5 million households.
3. RWE Innogy UK Limited (formerly RWE npower renewables), the UK subsidiary of RWE Innogy, which is one of the UK's leading renewable energy developers with an operational portfolio in the UK of 750 MW and a potential UK development portfolio of over 7,700 MW, including offshore wind farms and hydro plant.

Of the above it is RWE Generation UK plc and RWE Innogy UK Limited which are likely to become involved in promoting Developments of National Significance under the proposed arrangements. If you have any queries or wish to discuss any of our comments, please contact the undersigned in the first instance.

Yours faithfully

Neil Richardson
 Corporate Environmental Consents Manager
 RWE Generation UK plc

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Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Neil Richardson	
Organisation	RWE Generation UK plc (on behalf of all RWE Group companies operating in Wales)	
Address	Electron building, Windmill Hill Business Park, Whitehill Way, SWINDON, Wiltshire, SN5 6PB	
E-mail address	neil.richardson@rwe.com	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

For the avoidance of doubt, it should be made clear that the capacity range of an onshore energy generating station is defined in terms of MW electrical (MWe) (as opposed to MW thermal input).

Due to the lack of appropriate skills within local planning authorities to efficiently and effectively deal with onshore wind farm applications, RWE considers a minimum threshold of 10 MWe to be a more appropriate threshold for DNS applications for onshore wind farms, although 25 MWe is an appropriate threshold for all other types of generating station. Local political difficulties surrounding onshore generating station projects also mean that a large proportion of wind farm applications will ultimately end up to be determined by PINS or the Welsh Ministers on appeal in any case.

We note that clause 59 of the current (UK) Energy Bill, if enacted in its current form, will remove the requirement for Section 36 (Electricity Act 1989) consent

Consultation reference: WG25023

for onshore wind farms over 50MWe capacity in England and Wales. According to the explanatory notes to the Energy Bill, it is also proposed to amend the provisions of the Planning Act 2008 (which can be done via secondary legislation) to remove onshore wind farms over 50 MWe capacity in England and Wales from the list of projects which are NSIPs under the 2008 Act. By default, in the absence of further Welsh devolved legislative provision, such developments in Wales would then require ordinary planning permission from the local planning authority. The Welsh Government should ensure that ALL onshore wind farm projects in Wales of over 10 MWe capacity which are not NSIPs now or in the future, are DNS.

We suggest that there should be separate categories of DNS for:

(1) Electricity generating stations (excluding wind farms) of 25 MWe but less than 50 MWe capacity; and

(2) All wind farms of 10 MWe or greater capacity which are not Nationally Significant Infrastructure Projects within the meaning of the Planning Act 2008 (as amended).

(2) would ensure that any 50MWe + wind farms in Wales would be either NSIP or DNS.

If responsibility for energy infrastructure consents for projects over 50 MWe but less than 350 MWe is devolved in the future Wales Bill, then all such projects which would currently be NSIPs should become DNS.

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>RWE supports the principle of an applicant for a DNS having the OPTION of submitting applications for secondary consents to the Welsh Ministers at the same time as the application for planning permission for the DNS, and following the same process.</p> <p>RWE supports the ability to submit applications for secondary consents with a DNS application being "at the discretion of the developer". RWE believes that it is</p>				

Consultation reference: WG25023

vital that it remains the developer's option to either include secondary consents with the DNS application, or apply for them separately, not necessarily concurrently with the DNS application or each other. Each development will have individual circumstances which will require different approaches and potentially different timescales for individual secondary consents.

We note the comment in paragraph 3.4 that the Welsh Ministers may "recommend" to the developer that it should submit certain additional secondary consents at the same time as the DNS. This should be a recommendation only and the decision to include secondary consent applications with the DNS application (or not) should remain at the discretion of the developer.

The call-in powers for secondary consents identified in paragraph 3.6 should rarely be used by the Welsh Ministers and should only be used where the secondary consent application has already been submitted to the usual consenting authority. There needs to be specific provision in secondary legislation as to how the pre-application consultation requirements will apply to secondary consents not initially included with a DNS application but which are brought within its scope as a result of a call-in or for any other reason. It is not desirable or reasonable that the whole consultation process should have to be re-run just because a secondary consent has been brought into the scope of the process as a result of a call-in or other event outside the developer's control: further consultation should be required on the subject matter of the secondary consent only, and with the consultees appropriate to that secondary consent.

The call-in power should not be used in such a way that it becomes custom and practice to bundle all possible secondary consents into the DNS application at the outset, irrespective of the merits of each case, simply to avoid the risk of delay and disruption to the DNS procedure if a secondary consent application is called in.

RWE agrees that the cost of administering secondary consents should be incorporated into the overall fee for the DNS application (paragraph 3.9).

RWE agrees that the usual consenting authority should be required to issue a substantive response. There should be a definite time limit for such responses (paragraph 3.9).

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: RWE supports the procedure for determining applications for secondary consents being determined by the Welsh Ministers and in practice in most cases by the Inspector, subject to the following comments:				

Consultation reference: WG25023

(a) The timescales for the secondary consent should be aligned with those for the primary DNS and not unnecessarily extended.

(b) The procedures should be proportionate and not place undue burdens on developers, local or statutory authorities or other interested parties.

(c) Unnecessarily burdensome requests for additional information should not be made whether at the instance of the Inspector, NRW or the normal consenting authority for the secondary consent in question.

(d) Statutory consultees, including the normal consenting authority for the consent in question, should be required to respond with substantive comments within a prescribed timesale, subject only to their having received sufficient information from the developer to do so.

RWE agrees with the general approach to determining secondary consent applications set out in paragraph 3.7. To reduce the time and costs involved, secondary consent applications should normally be determined by written representations, with hearings or a public inquiry being held only where absolutely necessary.

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

We particularly welcome the option of including associated development, not strictly part of ther DNS, which would otherwise itself require ordinary planning permission from the local planning authority if applied for separately.

We would also suggest that licences, permits and consents normally granted by the Welsh Ministers or Natural Resources Wales under the following legislation should also be considered for inclusion in the list of secondary consents:

- Environmental Permitting (England and Wales) Regulations 2010 (only if related to drainage or water discharge from the DNS, but not operational permits for (e.g.) combustion plant).
- Water Resouces Act 1991
- Conservation of Habitats and Species Regulations 2010
- Deer Act 1991
- Wildlife and Countryside Act 1981
- Protection of Badgers Act 1992
- Countryside and Rights of Way Act 2000
- National Parks and Access to the Countryside Act 1949

Consultation reference: WG25023

Ancient Monuments and Archaeological Areas Act 1979
 Water Industry Act 1991
 Hedgerows Regulations 1997

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 Currently, the Planning EIA Regulations make provisions for the Welsh Ministers to issue EIA Screening and Scoping Directions. The proposal at paragraph 4.20 is for PINS to issue these as part of the DNS process. When issuing a Scoping Direction, PINS should also provide to the developer a list of statutory bodies consulted as part of the 'scoping' process. This process will need to take place well (possibly over 12 months where EIA is required) in advance of formal notification of the intention to submit a planning application for a DNS.

Paragraph 4.24 states that developers will be expected to supply and publicise "a complete copy of the planning application which they intend submitting to the Welsh Ministers". There must however be scope to amend the proposed application in light of comments received during the pre-application publicity and consultation processes, and the final application will therefore often differ materially from the draft issued for consultation. The 'pre-application consultation report' required by paragraph 4.31 logically cannot form part of the "complete copy of the planning application" required for pre-application consultation and the latter needs to be appropriately defined to recognise this.

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 12 months should normally be a sufficient period provided that there is nothing in the legislation to prevent non-statutory consultation with local authorities, NRW and other consultees on a proposed DNS in advance of formal notification to PINS.

Consultation reference: WG25023

However there should be provision for agreeing an extension to this period as a result of unforeseen circumstances and subject to agreement in writing by PINS.

We are not clear as to why the Welsh Government proposes an overall time limit for the statutory consultation process, especially in cases where re-consultation is justified because responses to the initial round of statutory consultation lead the developer to amend its proposals significantly.

It is not desirable that the time limit should result in the submission of incomplete or rushed DNS applications, or the need to restart the consultation process again from scratch under a new notification in complex cases, when continued consultations with key stakeholders might result in a better solution for all concerned.

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 Yes, with the exception noted below.

We have concerns about the proposed requirement for neighbour consultation. This is relatively straightforward where the neighbouring land is within the curtilage of an occupied building and notice can be served on the owner/occupier at the premises concerned. In other cases establishing the ownership/occupation and address of neighbouring landowners/occupiers can be very onerous, especially in rural areas. We have experience of the difficulties caused by the need to identify neighbouring landowners and occupiers in remote areas of Scotland (where neighbour notification by the applicant is a requirement for all planning applications) and the practical situation in many parts of rural Wales is rather similar.

We would suggest that it should not be a requirement to identify neighbours individually, that it should only be a requirement to consult neighbours by letter (addressed to "The Owner / The Occupier") where the land adjacent to the application site is in the curtilage of an occupied building, to which a notification can be delivered by hand or by post. Otherwise reliance should be placed on site notices and press notices. It should not be necessary for the prospective applicant to investigate the ownership of land which is not part of the curtilage of an adjacent building, purely for the purpose of serving a neighbour consultation letter.

We have a few other comments on the detail of the proposed consultation requirements:

Paragraph 4.24: there need to be some criteria for deciding whether the degree

Consultation reference: WG25023

of change to a proposed application which the developer proposes to make in response to consultation responses, is sufficiently large to warrant re-consultation. It should be possible for the developer to obtain a ruling from PINS on this point if in doubt.

Paragraph 4.25: Circular 32/92 is now over 20 years old and many of the references in it are out of date. Revised guidance is needed.

Paragraph 4.26: While the suggested content of letters and notices publicising a DNS application appears appropriate, it would be helpful for the Welsh Ministers to prepare a standard template site notice, press notice and notification letter in the same way as the standard form of notices of a planning application to be served on owners when an application is made.

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Whilst accepting the difficulties associated with agreeing a Statement of Common Ground (SoCG) as referenced in paragraph 5.19, in cases where a SoCG is considered necessary, PINS should have statutory powers to request and set deadlines for submission of SoCGs.</p> <p>We agree that there should not be an absolute deadline of 5 weeks after notice of validation of a DNS application for the submission of an SoCG, although where one is initiated earlier it should be submitted within 5 weeks in order to feed into decisions about the examination procedure. It should be possible for SoCGs to be submitted later with the Inspector's agreement where this would be helpful.</p>				

Consultation reference: WG25023

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Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Paragraph 5.25: We are concerned that PINS' discretion to accept late representation should only be used where there are special circumstances which justify allowing additional time. The Welsh Ministers should issue guidance on the circumstances which might justify late submissions. Objectors must not be allowed to use late representations vexatiously to delay the progress of the application. The Welsh Ministers should seek to minimise the risk that an aggrieved objector might succeed with judicial review of a DNS permission on the grounds that his (late) representation was not accepted.

Paragraph 5.27: The principle here should be that statutory consultees should make their representations within the time allowed and at the earliest possible stage of the process, as long as they have the information from the applicant to enable them to do so.

Paragraph 5.28: We welcome the requirement on statutory consultees to provide a substantive response (IAG report definition) within 5 weeks

Planning Performance Agreements should remain a voluntary option for a developer to negotiate an enhanced advice and support service from a statutory consultee. They should not be used for the performance of consultees' statutory duties and should not be necessary in order to ensure a timely response to statutory consultations, whether pre- or post- application.

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

RWE supports the general thrust of the proposals for amendments to DNS schemes post-application. Amendments are very commonly required as a result of post-application consultations, and despite the emphasis on pre-application consultation for DNS, this is likely to remain the case. Objectors will often deliberately submit representations as late as possible in the consultation period

Consultation reference: WG25023

and may deliberately hold off making submissions until the formal post-application stage to maximise delay to the project.

Given this possibility we support the proposal to allow 10 working days from the close of the consultation period for the applicant to respond by notifying the intent to make an amendment, including details of the proposed change. However, in some instances issues may be raised by consultation responses which require input from the local planning authority or statutory consultees before the proposed amendment can be defined in detail. 10 working days may be insufficient in these circumstances and there should be provision to allow PINS to allow the applicant extra time to respond where this is necessary.

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: In general yes, but a slightly longer timescale may be needed while the new regime "beds down" and PINS officers become more familiar with the operation of the DNS regime.</p>				

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: We have a concern that an arbitrary word limit could be seen as inhibiting objectors from properly raising matters which should have been material considerations for the Inspector and the Welsh Ministers, creating potential</p>				

Consultation reference: WG25023

grounds for judicial review.

The alternative might be to require that further representation be limited to matters which could not reasonably have been raised at earlier consultation stages, or new information which has arisen subsequently.

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We accept that it is still necessary to provide hard copies of an application and supporting documents to PINS and the local authorities involved, to facilitate public reference.</p>				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The impacts to be covered in an LIR should include positive ones such as jobs, remediation of contaminated land, impact on the local economy, etc., as applicable in any particular case.</p>				

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Consultation reference: WG25023

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

A fixed daily or hourly rate fee is considered appropriate provided that this is proportionate, reasonable and in line with government guidelines on cost recovery. Fees should only be incurred for the hours/days that the Inspector is working on the DNS application and should not be payable when an application is suspended. A transparent method of calculating fees should be set out in secondary legislation to provide certainty to all parties. Recognising the complexity of DNS applications, fees should bear an appropriate relationship to ordinary planning application fees (TCPA1990) (less complex) and NSIP fees (PA2008) (more complex).

Paragraph 7.9: the fixed fee payable on submission of a notification of intent must be coupled with a guaranteed response from PINS to the developer within, for example, 10 working days.

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Consultation reference: WG25023

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Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Agree subject to the percentage of fee retained being proportional to the work carried out during the 'validation' stage (largely an administrative task).				

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Paragraph 5.6: There is no justification for allowing PINS 42 days to validate a DNS application which is EIA development. Under the Planning Act 2008 NSIP regime, PINS are under a statutory obligation to 'accept' (akin to 'validate') all applications for Nationally Significant Infrastructure Projects (NSIPs), which are predominantly EIA development and arguably more complex than DNS applications, within 28 days. All DNS applications should be validated within a prescribed period of 28 days. Paragraph 5.13: We agree that there should be a duty on the LPA to liaise with the developer on section 106 matters when requested. Paragraph 5.23: Notwithstanding the requirement for the LPA to provide guidance and advice on the correct stakeholders to PINS, the LPA should also be required to provide this to the developer when requested during the pre-application stage. Paragraph 5.49: A pre-examination meeting should be a mandatory requirement for all DNS applications if a hearing or inquiry is to be held as part of the examination process. This would be open to all participants and would set the provisional timetable and key submission deadlines. Paragraph 5.51: The current appeals system allows the Welsh Ministers to delegate the decision-making authority to the Inspector, including on applications that will in future be DNS applications. To reduce the burden on Welsh Ministers and to speed up the consenting process, the same powers of delegation should be applied to DNS applications where appropriate. This could be achieved by delegating decisions by default to PINS and the Welsh Ministers utilising a call-in/recovery type procedure within a specified period following			

Consultation reference: WG25023

validation.

Paragraph 5.52: The matters to be taken into account when making a decision on a DNS application should also include any Section 106 Agreement, the draft conditions and the SoCGs (where applicable).

Paragraph 5.57: The circumstances in which the timeframe for determination of a DNS application should not include "Where parties fail to attend a hearing or inquiry without notice, or where there is significant delay in the receipt of important representations". This provision is too wide, goes against the objective of providing certainty of determination period and is too open to abuse. If it is considered necessary, then it should be very rarely used and only in exceptional circumstances to be determined by the Welsh Ministers.

Paragraph 6.25: We do not agree that local planning authorities should handle applications for amendments to consented DNS applications. Local planning authorities could use these powers to delay or prevent a development that has already received consent from the Welsh Ministers from going ahead, and cross-boundary applications could introduce further complications. The relevant Secretary of State determines non-material amendments to consented NSIPs after the applicant has consulted with the relevant bodies (including local planning authorities) in advance of submission. Rather than submitting amendments to the relevant local planning authority (or authorities) with an associated right of appeal (which could add months to the process), it would be more efficient and cost-effective for PINS or the Welsh Ministers to have responsibility for determining these from the outset.

Paragraph 7.22-23: Other costs incurred by PINS should be evidenced and every effort should be made to keep costs to a minimum when securing hearing/inquiry venues.

Paragraph 7.27: We have no objection to a fee being payable to cover the Welsh Ministers' role in the DNS application process however consideration should be given to delegating decision-making to PINS to reduce costs/time.

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

DEVELOPMENTS OF NATIONAL SIGNIFICANCE

Response to the Welsh Government's Consultation by the

LANDSCAPE INSTITUTE WALES

the Royal Chartered professional body for Landscape Architects

Contact: Dr Ruth Williams

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Phone: 07789 950345

Address: c/o The Landscape Institute, 107 Gray's Inn Road, London WC1X 8TZ

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#### **Our General Comments**

The Landscape Institute Wales (LIW) **agrees in principle** with many of the proposals in this consultation. Our response focuses only on those questions where we disagree, or where we have additional suggestions and comments.

There will be a **need for transitional arrangements** once these new provisions come into force, for the determination of developments that fall within the DNS category that have already been proposed in principle or previously submitted for determination. We believe the regulations should prescribe when these new provisions will come into force and how any existing or proposed schemes will be dealt with.

We also believe that measures should be taken to **avoid ill-conceived schemes being submitted prematurely in order to circumvent** any anticipated new requirements and procedures.

The consultation document does not explain how proposals of potential national significance will be dealt with **where they straddle** or have significant implications across either administrative domains, or the territorial divide between land and sea.

We note that in this consultation, as in the Positive Planning consultation, there is a focus on the need to improve the timeliness of the determination process. We reiterate our view that the planning system is a major tool to deliver sustainable development outcomes, which means **allowing sufficient time in the process** for properly considered, balanced decisions, resulting in the right development in the right place at the right time.



**Q1: Do you agree with the proposed thresholds and categories of development set out in Annex A? If not, why not?**

**The national significance of enhancing Wales' Green Infrastructure**

The significance of **Wales' Green and Blue infrastructure, and promoting its connectivity**, should be a paramount component of the Welsh Government's approach to managing Wales' natural resources - if a more sustainable approach to development and land use change in Wales is to be achieved in the future.

The LIW strongly advocates that the National Development Framework should recognise **Green Infrastructure as having 'national importance'**, and should facilitate green infrastructure provision and enhanced connectivity of high value environments across Wales.

High value environments and **landscapes which are currently internationally recognised** as being of national significance, such as National Parks, AONBs or other nationally designated conservation areas, should form a fundamental and strategic spatial component of such a green infrastructure network in the forthcoming NDF. Their inclusion within the NDF would, by implication, afford them special status and qualify them as "material planning considerations" when assessing the implications of any other DNS proposals affecting those areas.

If the NDF is to promote **a truly sustainable approach to DNS** then the value and integrity of Green Infrastructure identified within the NDF should not be compromised or significantly prejudiced by the consequential impacts of any other DNS proposal.

**DNS proposals affecting nationally designated landscapes**

The LIW believes that, in accordance with existing legal provisions and Planning Policy Wales approaches, all Major Development proposals, as well as DNS proposals, must continue to be **subject to the 'Silkin Test' (or 'major development test')**, should they be proposed in any protected area or in a location which would affect the interests of any such area. This means that major developments and DNS should only be allowed within or near designated landscapes in exceptional circumstances. Promoters should be required to demonstrate that any DNS in a designated landscape is absolutely necessary in the national interest, and cannot practically be accommodated in an alternative location outside the protected area. We would, therefore, expect any new regulations to include specific provisions requiring DNS proposals to demonstrate these requirements, and state how they:

>are compatible with,

>further the purposes of,

>and maintain the integrity of:

the special qualities of any landscapes officially designated as being of national importance.

**Q2: Do you agree with this proposed approach for determining secondary consents? If not, why not?**

The LIW agrees with this proposal in principle, but considers that **any secondary planning applications relating to a DNS proposal should be defined and agreed with the relevant authorities as early in the determination process as possible**. Those which have been

identified for co-determination should be made publicly known and appropriately advertised as being constituent elements of the relevant DNS application. This decision should be agreed by the various parties at a predetermined point in time in the pre-application procedure, thereby enabling the public and interested third parties to be made aware of the full scope and range of issues under consideration in the DNS application process.

We further believe that **applications for associated development** which is considered necessary for the DNS project to be viable **should also be considered at the same time as the main application**. We are aware of examples where associated development has been considered more environmentally damaging than the main development, but because the main development has been granted planning permission this has provided pressure for the associated development to also be given permission. It is essential that all components of a development proposal are considered together, or at the very least that associated development proposals are consulted upon at the pre-application stage so that third parties and statutory consultees are fully appraised of the overall impacts that they need to consider when responding and engaging with the planning process.

**Q6: Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?**

In principle we feel this is sufficient, but where there is a need or requirement to provide adequate, contemporary or seasonally-defined environmental information, the **developer should be required to ensure this is available before the end** of the relevant 12 month period.

**Q7: Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?**

The LIW agrees with the range of publicity being suggested, but we believe that the proposed period of response for communities and statutory consultees **should be extended to 42 days** (6 weeks) rather than the proposed 28 days). This is because they are likely to be complex proposals, often supported by lengthy and detailed data and technical information.

Where data is submitted by the applicant late in the process, communities and statutory consultees must be given sufficient time to respond to this, we suggest a time period of **a further 42 days** if the information provided is substantial or has the potential to significantly affect the views of objectors or consultees on the development.

We would like reassurances that Welsh Ministers' powers to direct the 'manner' and timescale of response by specified consultees to pre-application consultation (paragraph 4.39) **will be used proportionately**. They must not prejudice the ability of statutory consultees to make justified objections, nor must they impose unrealistic timescales that may result in poor quality responses.

The LIW **supports the production of a pre-application consultation report**, in particular the section which requires the developer to provide a detailed explanation of how they have responded to issues or the consequences of the scheme in relation to matters of concern raised by any public representations associated with the proposal.

**Q9: Do you agree with our proposals regarding statements of common ground?  
If not, why not?**

We would **welcome these proposals** which are designed to encourage inclusion of communities and other interested parties in the production of Statements of Common Ground. Third party non-statutory bodies or organisations rarely have any involvement in discussions or the opportunity to contribute to the production of Statements of Common ground. The ability to contribute to this process provides an opportunity to call to attention any unforeseen matters which could be either acceptable or contentious, and might otherwise only come to light or be recognised later in the determination process.

**Q10: Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?**

Given the inevitable complexity of most DNS proposals, we **again suggest a six week period for response is more appropriate.**

If alterations to the proposal have been made as a result of the outcomes of pre-application consultations, then we believe **there should be flexibility within the process to enable the response period to be extended to enable the** statutory consultees to have sufficient time to provide a comprehensive response.

We would hope that proposals for PINS to use their discretion to pause the process could be **triggered at the request of an objector or statutory consultee** if there are significant amendments to a proposal or provision of late information which is significant in terms of understanding the development's environmental impacts.

The LIW wants to emphasise that the ability of communities, interested parties and statutory consultees to provide full and substantive responses at this stage is totally dependent on having access to all relevant information about the development early in the process.

**Q11: Do you agree with our proposals for the amendment of schemes for DNS?  
If not, why not?**

The LIW agrees that permissible amendments to a scheme following its submission for determination should **only be allowed if they are either minor and/ or minimal.** We believe that the developer should be required to provide a detailed explanation of what has prompted the desired amendment and why they consider it is now justified.

We are aware of numerous examples of large scale development proposals being significantly revised or amended late in the determination process or additional supplementary environmental information being presented by developers to substantiate their case, long after the application has been submitted, even during appeal proceedings. We consider this unprofessional practice and **totally unacceptable** especially when these circumstances make it even more demanding and often impractical for interested parties to be able to respond in a timely manner or challenge this detail. Such practices undermine the credibility of the planning process and disadvantage those charged with making timely and objective assessments of the impacts and consequences of the scheme.

We **support the proposal for guidance** to help determine whether an amendment to a scheme should be accepted.

We are also pleased to see that, depending on the significance of the amendment, **the Inspector will be able to call for a further consultation period** if necessary.

We recommend that **the circumstances** under which further consultation will be required **should be set out in the guidance** and a mechanism for objectors to request a further consultation period should be included.

**Q12: Do you agree 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.**

The LIW agrees with this proposal, on **the proviso that the Inspector is satisfied that all the relevant information** required to determine the application has been provided.

Third parties should, however, be able to notify the Inspector within this time period **if they believe any relevant information is still deficient or missing.**

**Q15: Do you agree with the minimum requirements for Local Impact Reports? If not, why not?**

The LIW **agrees with the minimum requirements** for Local Impact Reports.

We note that it is the Welsh Government's intention to 'seek to' produce guidance on these. We believe **this guidance will be very important**, particularly in relation to the sorts of technical assessments that will be recognised as valid. For example, guidance on the methodology used to assess ecological or **landscape impacts** will be important.

One of the reasons that guidance will be important is that we find it difficult to see how the LPA, in completing their technical assessment of the impact of the proposal, will be able to do so in a meaningful way without providing some objective and value judgement of its impacts on certain topics. Whilst some impacts may be clear e.g. local loss of habitat or flooding impacts, there are others, such as instances where the impacts of a proposal on **the visual or landscape character** of an area are a key factor, where a value judgement may have to be made. We believe an LPA would be failing to fulfil its role if they did not provide such a judgement.

We suggest this issue should be **reviewed and greater clarity provided** in future guidance or regulations as to precise scope for LPAs reporting on the issue of local impacts. Without this ability to respond in a comprehensive and open manner, the process of evaluation will be distorted.

Though not specifically mentioned in the consultation document, we also believe that **LPAs should also be required to produce an LIR for any DNS** which is included in the NDF and which is subsequently proposed for implementation.

In terms of ensuring transparency we strongly believe it is important that any **LIR submitted by an LPA should be available for others to consider** and provision made within the procedures for

third party interests to have the opportunity to offer their objective response to PINS to any judgements made by the LPA in their LIR statement.

**Q16: Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.**

We offer no comment on this timescale, but whatever the prescribed period during which the LPA will be required to produce their LIR, we believe it is not unreasonable that **an additional period of three weeks is then allowed in the determination process for third parties** to be able to comment on the soundness and comprehensive nature of the submitted LIR report.

*RW/07.08.15*

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Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	[REDACTED]	
Organisation	[REDACTED]	
Address	[REDACTED]	
E-mail address	[REDACTED]	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 The January 2013 Hyder study 'Evaluation of Consenting Performance of Renewable Energy Schemes in Wales' highlights the failure of Welsh LPA's to determine wind energy applications in a timely manner. During the study period of 2005 to 2012 the average time to determine wind farm application of less than 50MW at LPA level was 122 weeks. This compares to 46 weeks for wind applications determined by PINS.

While TAN8 focuses on projects over 25MW within SSA's there are projects being developed within SSA's of less than 25MW which can make an important contribution to delivering Welsh targets. There are also a number of wind farm projects of less than 25MW being developed outside TAN8 SSA's which will make an important contribution to Welsh renewable energy targets (as set out in the John Griffiths letter of July 2011).

We believe the minimum threshold for DNS projects should be reduced below the currently proposed threshold of 25MW. We recommend a reduction in the

Consultation reference: WG25023

lower threshold to 15MW. This would typically include projects of between 5 to 8 turbines or more, depending on the turbine capacity. This range of project sizes would be considered to be strategic scale by planning authorities in Wales.

We also believe that the upper threshold for DNS projects should be increased to 350MW in line with Silk Commission recommendations and supported in the St David's Day Agreement. Failure to do this would result in projects over 50MW being consented at Local Authority level as a result of the changes Westminster are bringing into force by removing onshore wind from the current NSIP process.

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				
<p>RES supports the overall objectives of the pre-application process for DNSs as set out in the Consultation Document in respect of ensuring that applications proceed in a timely manner (4.1) whilst ensuring effective engagement with stakeholders. RES also believes that a 12 month period from acceptance of a notification to submit a DNS to the submission of the application will, for many projects above RES' proposed threshold of 15MW, be a sufficient period to allow for effective consultation to take place.</p> <p>However, RES believes that setting a fixed time limit of 12 months as currently proposed in the Consultation Document may not be sufficient for larger projects (within the 15-50MW range), which may benefit from two or more stages of stakeholder and community engagement. Moreover, RES believes that artificially constraining stakeholder/community engagement to 12 months runs counter to the Welsh Government's desire for effective and frontloaded consultation which enables DNSs to be "complete on submission" (4.2) - particularly taking into account the prescription on any pre-application consultation taking place prior to PINS' acceptance of a notification to submit a DNS (4.15).</p> <p>RES would therefore request that a period of 'up to 18 months' is allowed</p>				

Consultation reference: WG25023

between the date of acceptance of the notification of a DNS to submission - retaining the scope for a short extension to this period to be requested by the applicant and subject to the agreement of PINS.

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 We disagree on two counts.

1) It is our view that the set time of 12 months for formal consultation is too restrictive considering the wide scale of projects that may fall within DNS guidance. For example, the number of stakeholders (and therefore the time required to consult properly) for a 25MW onshore wind project would be very different when compared to a, say, 100MW project. We would recommend that the scale of project and likely scope of consultation is considered pre-notification as part of the pre-application services provided by PINS. As the service already includes guidance on the amount and type of community consultation required, it would seem logical to include agreement about how long this should take.

2) A further concern regards the requirement to submit the planning application to Welsh ministers with a 28 day period for comment and feedback prior to formal submission. While we do not object to this part of the consultation in principle, this requirement currently seems to form part of the 12 months allowed for formal pre-application consultation. We are concerned that this would significantly reduce the amount of time for formal consultation in practical terms, and not just by 28 days. If, as the guidance seems to indicate, the feedback and responses from the 28 day application review period should also form part of the final Consultation Report in support of the planning application then additional time needs to be allowed once the 28 day period has closed for this information to be incorporated. We would therefore recommend that there is a minimum 12 month consultation period (actual length to be agreed in advance with PINS as per point 1 above), followed by an additional review period of up to three months in which the draft planning application can be viewed, feedback obtained, responses made and any final amendments or additions to documentation can be incorporated before the final application is made.

Consultation reference: WG25023

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: If the LPA fails to respond within 5 weeks it should be assumed that the LPA have no objections to the application.				

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

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Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: This should be limited to one hard copy to the LPA and one copy to the Planning Inspectorate.				

Consultation reference: WG25023

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>RES believes that, in the context of the DNS process delivering the Welsh Government's aspirations for a more efficient planning system with effective and genuine stakeholder engagement, clearer differentiation is required between the Local Impact Reports (LIRs) to be submitted by LPAs and representations made by Town and Community Councils.</p> <p>The purpose of an LIR as set out in the Consultation Document is to provide technical and factual information relating to planning policy and technical/impact assessments (6.13-6.14). RES supports the proposal that LIRs are submitted by the LPA within which a DNS is situated, with LPAs neighbouring a DNS site having an option to submit a voluntary LIR.</p> <p>Furthermore, RES believes that the proposal for Town and Community Councils to submit LIRs is fundamentally confusing for communities and developers alike. As a technical and factual document containing material planning policy and technical information a single LIR would be preferable, and should be the responsibility of the LPA. Should Town or Community Councils wish to raise planning policy or technical matters relating to their own bodies these should be included within the relevant LPA's LIR.</p> <p>RES therefore requests that the proposal for voluntary LIRs for Town and Community Councils be deleted, and that LPAs should be required to consult with Town and/or Community Councils within a DNS site as part of the preparation and submission of an LIR.</p>				

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Consultation reference: WG25023

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We would endorse a fixed fee structure to give developers and Welsh Government certainty on costs and income for each project. If Welsh Government decide to implement a variable fee structure we would endorse the imposition of a cap and the publication of a schedule of anticipated costs.				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: This should be a relatively low fee which reflects the short timescales involved.				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The LPA should be able to provide a LIR within five weeks. We believe the LPA should receive no payment if the LIR is not submitted within the minimum requirements.				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

Comments:
Costs incurred to date should not be refunded but developers should be given a window of opportunity (we suggest 5 weeks) to address issues which result in an invalid application.

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
Comments:		<input type="checkbox"/>	<input checked="" type="checkbox"/>

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	[REDACTED]	
Organisation	[REDACTED]	
Address	[REDACTED]	
E-mail address	[REDACTED]	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>I would query why “unconventional oil and gas development” has not been included as a category given that the recent notification direction whereby applications recommended for approval have to be notified to Welsh Ministers. The supporting document states that the rationale is to speed up the decision making process for applications that often get made at WG level and this would appear to be an obvious category for inclusion in some form.</p> <p>In addition, some of the thresholds (such as passenger capacity for airports or population equivalent for waste water treatment) would appear difficult to quantify objectively prior to submission and could change at any time thereafter and exceed the original threshold.</p>				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Seems logical and there are benefits to the approach.				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The Inspector would appear best placed to consider what other applications should form part of the proposal, however the view of the Local Planning Authority should be sought before a decision is made to ensure local views/ issues pertinent to the decision may be raised/ considered.				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The minimum requirements need to include an indication of the likely impacts, whether this is within the EIA Statement or not to enable careful consideration.</p>				

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: It's not entirely clear what the purpose of this requirement is and 12 months appears to be an arbitrary time limit. Delays could arise as a result of information raised as part of the consultation period where further survey work is required that can only be carried out at a certain time of year. It would seem more reasonable to provide 24 months to allow sufficient time for consultation, further consultation of plans are revised and allow for the scheme to be amended to facilitate a submission.</p>				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The list in general would appear suitably comprehensive. However, the requirement to publish notices in a local newspaper is questionable (the same for general applications) given the decline in newspaper sales. May be preferable/ easier to put a notice on the Local Planning Authority's website or via their social media platforms.</p>				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
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Consultation reference: WG25023

		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Applicants should be given the opportunity to amend proposals and whilst it is at the discretion of the Inspector, the Local Planning Authority should be given the opportunity to comment on whether amendments should be accepted as well.				

Consultation reference: WG25023

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Essentially, any further representations should be long enough to adequately cover the topic and respond to queries raised. Therefore, for this to work in practice, the Inspector will have to be very focussed with their question, otherwise the request for additional comments will be of limited use. Further information should aid the decision, however long the submission is.				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

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Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The LIR should also include recognised site constraints as well as Local Planning Authorities may have information that is pertinent to the decision making process that is not publically available.</p> <p>With regards to evidence that the application has been advertised in accordance with the legislation, given that LPAs are only expected to put up Site Notices, it is assumed that a photograph(s) of site notices in situ would suffice.</p>				

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>5 weeks would be insufficient time for a Local Planning Authority to respond as we would be required to undertake internal consultation and consider all aspects of an application before responding. When considering the possible local importance/ impacts of a development of national significance, it is highly likely that Members would wish to have the opportunity to comment on the response on behalf of the LPA. With Planning Committees every 4-5weeks, a longer period would be required in order to report the application and responses to committee prior to the LPA issuing its Local Impact Report. 8 weeks would be more acceptable. In addition, it seems perverse that PINS have 4-6 weeks just to validate an application (and it can be extended where necessary), whereas statutory consultees could have less time to review the necessary information and respond. The system builds time in for PINS and the Welsh Ministers throughout but isn't equitable to LPAs.</p>				

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh	Yes	Yes (subject to comment)	No

Consultation reference: WG25023

	Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: There should be a minimum fee for a LIR, but the overall fee should be based on the complexity of the application having consideration of the likely issues that will arise and the specialist input required. PINS will be charging by time due, so LPAs should also be allowed further fees based on the submission.				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: The WG's insistence on financial penalties for what it considers to be poor performance is extremely short-sighted and will result in poor outcomes for planning in Wales one way or another. Local Authorities are increasingly under more pressure to determine applications that are becoming increasingly complex with reduced times/ resources due to the current economic climate. Yet it is considered that removing fees further will somehow improve performance. This proposal could have the opposite effect and a reduction in the quality of information reported back to the WG. The whole aim is to improve, aid and inform the decision making process and this may, on occasion, take longer than the recommended timeframe to respond (which is already proposed to be of short duration). LPAs should not be penalised for this. When considering fees, the document suggests that refunds will not be provided for an invalid DNS application as work will already have been carried out by PINS. But the same rationale does not apply with regards to this proposal as LPAs will still have undertaken work. The rationale that no fee is payable if no LIR is submitted at all is logical. However, if it is submitted late the fee should be payable as works will have been undertaken.				

Consultation reference: WG25023

The document states that the WM's will have 36 weeks to determine an application. On the basis of the above penalties, it can only be assumed that the fee would be refunded if the decision goes beyond this period?

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 It would be inconsistent with current planning legislation and fees guidance. Local Planning Authorities currently have to undertake what can sometimes be a significant amount of work just to get an application valid. However sometimes, an applicant cannot submit the necessary information and the application is subsequently returned along with the full fee (and there is also a cost associated with returning the fee). This issue has not been addressed by the WG for LPAs dealing with invalid applications, but is recommended for these applications. The proposed legislation would result in further divergence between the general system that LPAs have to adhere to and the new approach which only benefits the Welsh Ministers. If this is introduced, should validation costs not be incumbent on the applicant for all planning applications?

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 With regards to pre-application enquiries, it is not entirely clear that the applicant has to apply to both PINS and the LPA (although it is intimated in the S106 section)? It should be clarified that pre-app with the LPA is mandatory for all DNS applications.

 Will LPAs have to appear at Inquiries? And if so, will they receive a fee for preparation of information and attendance? There's no reference of cost recovery for LPAs. Without this payment the LPA would have to draw on existing resources, which may have an unintended and negative impact on other planning work carried out the LPA.

 Time limits involved - WG get 36 weeks to determine an application - what is the recourse if this deadline is missed? No right of appeal so statutory time limit is

Consultation reference: WG25023

essentially meaningless. Or would the fee be refunded if it exceeds this timeframe given what has been suggested for LPAs?

In conclusion and as a final point, I would query the overall timescales involved given that there would be 4-6 weeks just to validate an application. Whilst it is appreciated that there can be a significant amount of work involved, 6 weeks is extremely generous in an "expedited system". Similarly, the Welsh Ministers will have all of the information before them, all consultation responses and the Inspectors report. A decision should therefore be forthcoming significantly before 12 weeks. LPAs are criticised for slow decisions on applications where information and opinions need to be sought which takes time. Ministers will have all of this information which should result in a quick turnaround.

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

From: Jane Hallett MRICS



Deputy Head FMC Infra Policy
MINISTRY OF DEFENCE
Ramillies Building
HQ Land Forces
Marlborough Lines
Monxton Road
ANDOVER
SP11 8HD

11 August 15

Developments of National Significance Consultation
Decisions Branch
Planning Directorate
Welsh Government
Cathays Park, Cardiff
CF10 3NQ

Developments of National Significance Consultation 2015

Thank you for the opportunity for the Ministry of Defence (MOD) to comment on the above consultation. We have reviewed and we have no objections to the major principles of the proposals.

As you aware the MOD has a significant presence in Wales from an operational, training and test and evaluation ranges perspective in the land sea and air environments and we have a duty to safeguard defence outputs and capabilities to meet existing and evolving requirements.

It is within this area that we assess that the current consultation arrangements proposed for determining the developments of national significance do not make sufficient provision to take account of MOD safeguarding requirements (both statutory and non-statutory).

The proposals for managing pre-application and full applications make provision for consulting statutory consultees. However, the definition of statutory consultee included at section 4.22 refers to the list of statutory consultees defined in schedule 4 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012: Schedule 4. Deriving the definition of statutory consultees exclusively from this schedule does not take account of relevant statutory consultees (such as the MOD) as defined under other legislation and directions.

The MOD is a statutory consultee on the physical safeguarding of aerodromes, air weapon ranges, explosives storage areas and technical sites in accordance with the provisions of the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002 (Planning Circular 01/03).

Accordingly the definition of statutory consultee adopted needs to be expanded to incorporate arrangements to ensure that the MOD (and other relevant statutory consultees) defined under the above direction are identified in the new arrangements.

The MOD also has extensive non-statutory safeguarding interests to maintain military low flying training capabilities and the effective operation of defence radars. These are particularly relevant to renewable energy generation developments. The pre-application and application processes

outlined make no reference to consulting relevant authorities on matters of national significance such as defence.

Current national guidance included in Part 1 of the Overarching National Policy Statement (NPS) for Energy (EN1) identifies that the policy and guidance it contains on generic impacts in part 5 is likely to be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended) in England and Wales.

Part 5 of NPS (EN1) identifies the generic impacts that arise from the development of any types of energy infrastructure. Such impacts include in Section 5.4 Civil and Military aviation and defence interests. In summary this section states that the decision maker should be satisfied that the effects on civil and military aerodromes, aviation technical sites and other defence interests have been addressed by the applicant.

The National Policy Statement for Renewable Energy Infrastructure (EN-3) states that this National Policy Statement (NPS) should be read in conjunction with Overarching National Policy Statement for Energy (EN-1) which covers (amongst other matters): key principles to be followed in the determination of applications; and the assessment and handling of generic impacts that are not specific to particular technologies.

In summary we feel it is imperative that the policy and procedures proposed make provision to implement such nationally significant non-statutory consultation arrangements. We therefore seek clarification on the relation between the arrangements proposed in this consultation and the established guidance and arrangements included in the Energy National Policy Statements series (EN1-6). Our Officials responsible for Safeguarding would be very willing to brief or discuss this issue further with the Welsh Government Officials if this is felt to be helpful.

Jane Hallett

Jane Hallett MRICS
Deputy Head FMC Infrastructure policy
Ministry of Defence



Developments of National Significance

August 2015

General Comments

WEL agrees in principle with many of the proposals in this consultation. Our response focuses only on those questions where we disagree, or where we have additional suggestions and comments. Some of our members have particular comments to make on the thresholds and criteria for DNS, according to their own experience. As a network, we only comment on areas of common concern in this regard.

Q1: Do you agree with the proposed thresholds and categories of development set out in Annex A? If not, why not?

Energy Installations

WEL believes that the designation of energy generation installations from 25–50MW needs further thought given proposals in the UK Energy Bill 2015 to remove installations above 50MW from the NSIP process. It would be illogical for installations between 25-50MW to be treated as DNS if those over 50MW were not. Even if responsibility for installations up to 350MW is devolved to Wales, as proposed in the St David's Day Agreement, and these were subsequently included as DNS, it would still result in very large energy installations (over 350MW) being dealt with by LPAs. Given that Welsh and Westminster legislation concerning energy installations is being developed in parallel we would like to see acknowledgement of this in the setting of thresholds for planning in order to create a coherent system in Wales.

The national significance of enhancing Wales' Green Infrastructure

The significance of Wales' Green and Blue infrastructure and promoting its connectivity should be an important component of the Welsh Government's approach to managing Wales' natural resources if a more sustainable approach to development and land use change in Wales is to be achieved in the future.

WEL believes that the National Development Framework should recognise Green Infrastructure spatially as being of national importance, and should facilitate green infrastructure provision and enhanced connectivity of high value environments across Wales. High value environments and landscapes which are currently internationally recognised as being of national significance, such as National Parks, AONBs or other nationally designated conservation areas, should form a fundamental and strategic spatial component of such a green infrastructure network in the forthcoming NDF. Their inclusion within the NDF would by implication afford them special status and qualify them as "material planning considerations"

when assessing the implications of any other DNS proposals affecting those areas. If the NDF is to promote a truly sustainable approach to DNS then the value and integrity of Green Infrastructure identified within the NDF should not be compromised or significantly prejudiced by the consequential impacts of any other DNS proposal.

DNS proposals affecting nationally designated landscapes

WEL believes that, in accordance with existing legal provisions and Planning Policy Wales approaches, any DNS proposal within a nationally designated landscape area, or in a location which would affect the interests of any such area, must satisfy the mandatory requirements of the Major Development test (SILKIN Test), which already applies to any Major Development proposal in such an area. Any regulations relating to DNS in these areas should likewise include specific provisions requiring them to be subject to and conform with these same requirements.

As a consequence, the anticipated regulations should make it clear that any DNS proposal in a designated landscape should only be permissible in exceptional circumstances and where it can be demonstrated that the scheme is absolutely necessary and could not practically be accommodated in an alternative location outside that particular protected area. We would also expect the developer of any such DNS to be specifically required, in any evidence supporting their proposal, to demonstrate how its implementation is compatible with and furthers the purposes of nationally designated landscapes. In doing so they will need to explain how the scheme maintains the integrity of any of the special qualities which justified the designation of that nationally important landscape.

Q2: Do you agree with this proposed approach for determining secondary consents? If not, why not?

WEL agrees with this proposal in principle, but considers that any relevant secondary consents relating to a DNS proposal should be defined and agreed with the relevant authorities as early in the determination process as possible. Those which have been identified for co-determination should be made publicly known and appropriately advertised as being constituent elements of the relevant DNS application. This decision should be agreed by the various parties at a predetermined point in time in the pre application procedure, thereby enabling the public and interested third parties to be made aware of the full scope and range of issues under consideration in the DNS application process.

We further believe that applications for associated development which is considered necessary for the DNS project to be viable should also be considered at the same time as the main application. WEL members are aware of examples where associated development has been considered more environmentally damaging than the main development, but because the main development has been granted planning permission this has provided pressure for associated development to also be given permission. It is essential that all components of a development proposal are considered together, or at the very least that associated development proposals are consulted upon at the pre-application stage so that third parties and statutory consultees are fully appraised of the overall impacts that they need to consider when responding and engaging with the planning process.

Q6: Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?

In principle we feel this is sufficient, but where there is a need or requirement to provide adequate, contemporary or seasonally defined environmental information, the developer should be required to ensure this is available before the end of the relevant 12 month period.

Q7: Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?

WEL agrees with the range of publicity being suggested, but we believe that the proposed period of response for communities and statutory consultees to what is likely to be complex proposals, often supported by lengthy and detailed data and technical information, should be extended to 42 days (6 weeks) rather than the proposed 28 days. Where data is submitted by the applicant late in the process, communities and statutory consultees must be given sufficient time to respond to this, we suggest a time period of a further 42 days if the information provided is substantial or has the potential to significantly affect the views of objectors or consultees on the development.

We would like reassurances that Welsh Ministers' powers to direct the 'manner' and timescale of response by specified consultees to pre-application consultation (paragraph 4.39) will be used proportionately. They must not prejudice the ability of statutory consultees to make justified objections, nor must they impose unrealistic timescales that may result in poor quality responses.

WEL supports the production of a pre-application consultation report, in particular the section which requires the developer to provide a detailed explanation of how they have responded to issues or the consequences of the scheme in relation to matters of concern raised by any public representations associated with the proposal.

Q9: Do you agree with our proposals regarding statements of common ground? If not, why not?

We would welcome proposals designed to encourage inclusion of communities and other interested parties, such as the third sector, in the production of Statements of Common Ground. Third party non-statutory bodies or organisations rarely have any involvement in discussions or the opportunity to contribute to the production of Statements of Common ground. The ability to contribute to this process provides an opportunity to call to attention any unforeseen matters which could be either acceptable or contentious, and might otherwise only come to light or be recognised later in the determination process.

Q10: Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?

Given the inevitable complexity of most DNS proposals, we again suggest a six week period for response is more appropriate. If alterations to the proposal have been made as a result of the outcomes of pre application consultations, then we believe there should be flexibility within the process to enable the response period to be extended to enable the statutory consultees to have sufficient time to provide a comprehensive response.

We would hope that proposals for PINS to use their discretion to pause the process could be triggered at the request of an objector or statutory consultee if there are significant amendments to a proposal or provision of late information which is significant in terms of understanding the development's environmental impacts. WEL members have experience of information being provided late in the determination process by developers and we would emphasise that the ability of communities, interested parties and statutory consultees to provide full and substantive responses at this stage is dependent on having all relevant information about the development early in the process.

Q11: Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?

WEL agrees that permissible amendments to a scheme following its submission for determination should only be allowed if they are either minor and/ or minimal. We believe that the developer should be required to provide a detailed explanation of what has prompted the desired amendment and why they consider it is now justified.

We are aware of numerous examples of large scale development proposals being significantly revised or amended late in the determination process or additional supplementary environmental information being presented by developers to substantiate their case long after the application has been submitted, even during appeal proceedings. We consider this unprofessional practice and totally inappropriate especially when these circumstances make it even more demanding and often impractical for interested parties to be able to respond in a timely manner or challenge this detail. Such practices undermine the credibility of the planning process and disadvantage those charged with making timely and objective assessments of the impacts and consequences of the scheme.

We support the proposal for guidance to help determine whether an amendment to scheme should be accepted. We are also pleased to see that, depending on the significance of the amendment, the Inspector will be able to call for a further consultation period if necessary. We recommend that the circumstances under which further consultation will be required should be set out in the guidance and a mechanism for objectors to request a further consultation period should be included.

Q12: Do you agree 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.

WEL agrees with this proposal, on the proviso that the Inspector is satisfied that all the relevant information required to determine the application has been provided. Third parties should, however, be able to notify the Inspector within this time period if they believe any relevant information is still deficient or missing.

Q15: Do you agree with the minimum requirements for Local Impact Reports? If not, why not?

WEL agrees with the minimum requirements for Local Impact Reports. We note that it is the Welsh Government's intention to 'seek to' produce guidance on these. We believe this guidance will be very important, particularly in relation to the sorts of technical assessments that will be recognised as valid. For example, guidance on the methodology used to assess ecological or landscape impacts will be important.

One of the reasons that guidance will be important is that we find it difficult to see how the LPA, in completing their technical assessment of the impact of the proposal, will be able to do so in a meaningful way without providing some objective and value judgement of its impacts on certain topics. Whilst some impacts may be clear e.g. local loss of habitat or flooding impacts, there are others, such as instances where the impacts of a proposal on the visual or landscape character of an area are a key factor, where a value judgement may have to be made. We believe an LPA would be failing to fulfil its role if they did not provide such a judgement.

We suggest this issue should be reviewed and greater clarity provided in future guidance or regulations as to precise scope for LPAs reporting on the issue of local impacts. Without this ability to respond in a comprehensive and open manner, the process of evaluation will be distorted. Though not specifically mentioned in the consultation document, we also believe that

LPAs should also be required to produce an LIR for any DNS which is included in the NDF and which is subsequently proposed for implementation.

In terms of ensuring transparency we strongly believe it is important that any LIR submitted by an LPA should be available for others to consider and provision made within the procedures for third party interests to have the opportunity to offer their objective response to PINS to any judgements made by the LPA in their LIR statement.

Q16: Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.

We offer no comment on this timescale, but whatever the prescribed period during which the LPA will be required to produce their LIR, we believe it is not unreasonable that an additional period of three weeks is then allowed in the determination process for third parties to be able to comment on the soundness and comprehensive nature of the submitted report.

Further Comments

WEL would like to make the following additional comments and recommendations:

There will need to be transitional arrangements once these new provisions come into force, for the determination of developments that fall within the DNS category that have already been proposed in principle or previously submitted for determination. We believe the regulations should prescribe when these new provisions will come into force and how any existing or proposed schemes will be dealt with. We believe that measures should also be taken to avoid ill-conceived schemes being submitted prematurely in order to circumvent any anticipated new requirements and procedures.

The consultation document does not explain how proposals of potential national significance will be dealt with where they straddle or have significant implications across administrative domains or the territorial divide between land and sea.

WEL notes that in this consultation, as in the Positive Planning consultation, there is a focus on the need to improve the timeliness of the determination process. We reiterate our view that the planning system is a major tool to deliver sustainable development, which means allowing sufficient time in the process for properly considered, balanced decisions, resulting in the right development in the right place at the right time.

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Steven Edwards	
Organisation	SP Energy Networks	
Address	Land & Planning SP Energy Networks 3 Prenton Way Prenton Merseyside CH43 3ET	
E-mail address	steven.edwards@scottishpower.com	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: The type of development listed in the Thresholds annex also includes development brought forward in a planning application (see Annex A page 55). These would cover Associated Developments and would mean that promoters could use the new Planning Wales Act 2015 for what is currently AD in the Planning Act 2008 to be considered as a DNS and be determined by welsh ministers alongside the DCO instead of the LPA.				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

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Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

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Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				
<p>Too restricted and more flexibility needed.</p>				

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				
<p>Too short a timescale</p>				

Consultation reference: WG25023

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: systems in place to breakdown electronic copies to smaller file sizes				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

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Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers’ (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Consultation reference: WG25023

Comments:

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

Consultation reference: WG25023

Annex 1 - Consultation Response Form

Developments of National Significance

We are seeking your views on detailed proposals to establish a new system for the Welsh Ministers to process 'Developments of National Significance' ("DNS"). This is a new category of planning applications.

Please submit your comments by 12/08/2015.

If you have any queries on this consultation, please email:

planconsultations-g@wales.gsi.gov.uk or telephone Lewis Thomas on 029 2082 3201.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	[REDACTED]	
Organisation	[REDACTED]	
Address	[REDACTED]	
E-mail address	[REDACTED]	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We note that paragraph 3.14 states that any changes to the list will be subject to further consultation.				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The proposals are a minimum and we would like to see developers undertake a greater level of consultation including attending meetings to explain the proposals rather than just site notices, letters and press notices. We would like to see that developers place a copy of the consultation report on an accessible website.				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Will the LPAs be fully reimbursed for the erection of site notices?				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

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Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: From processing NSIP projects it is Powys County Council's opinion that 5 weeks is unrealistic. A longer time period at this stage will often save a significant amount of time for the Inspector.</p>				

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Amendments are extremely expensive to process for LPA's.</p>				

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Consultation reference: WG25023

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Paper copies should be made available on request, as some third party organisations may not have access to the relevant software to easily read complex documents and drawings.</p> <p>Paper copies are often required for fieldwork (Landscape Consultant, Ecologist, Archaeologist, Planning Officer, PROW Officer, Commons Officer, Highway Officer etc). A LPA should be asked how many copies they require to process the development. This was a problem occurred when processing NSIPs when only one copy of the ES was submitted for consideration to the LPA. LPA should not have to pay to secure additional copies required to process the application. This limitation to one copy could cost a LPA thousands of pounds.</p>				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

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Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
To provide a quality response a appropriate amount of time is required. Time spent undertaking an appropriate LIP will save time for the Inspector and applicant.

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
No comment.

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
This needs to be determined on a case by case basis. Costs vary significantly.

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Consultation reference: WG25023

Comments:
If a robust justification for the timeframe is provided then full payment should be given.

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 I

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-g@wales.gsi.gov.uk

Please include 'Developments of National Significance - WG 25023' in the subject line.

Post

Please complete the consultation form and send it to:

**Developments of National Significance Consultation
Decisions Branch
Planning Directorate
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ**

Additional information

If you have any queries on this consultation, please:

email: planconsultations-g@wales.gsi.gov.uk ; or

telephone: Lewis Thomas on 029 2082 3201

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Julian Boswall	
Organisation	National Infrastructure Planning Association ('NIPA')	
Address	Please use email	
E-mail address	julian.boswall@burges-salmon.com info@nipa-uk.org	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: About NIPA:</p> <p>NIPA was created to develop and disseminate learning and best practice for both promoters and those affected by proposed projects. We provide a forum for those with an interest in the planning and authorisation of national infrastructure projects in the UK, particularly those brought forward within the framework of the Planning Act 2008.</p> <p>In summary, we:</p> <ul style="list-style-type: none"> • Advocate and promote an effective, accountable, efficient, fair and inclusive system for the planning and authorisation of national infrastructure projects and act as a single voice for those involved in national infrastructure planning and authorisation; • Participate in debate on the practice and the future of national infrastructure planning and act as a consultee on proposed changes to national infrastructure planning, and authorisation regimes, and other relevant consultations; and 				

Consultation reference: WG25023

- **Develop, share and champion best practice, and improve knowledge, skills, understanding and engagement by providing opportunities for learning and debate about national infrastructure planning**

NIPA members (frequently more than one) are involved in every Nationally Significant Infrastructure Project (NSIP) application under preparation, submitted or granted to date.

This response has been prepared after consultation with NIPA members.

This response answers 'No' if NIPA is firmly objecting to an aspect of the question even if it is supportive otherwise. We assume this is the intended approach.

Reponse to Q1:

NIPA considers that the thresholds are policy considerations for the Welsh Government to consider set against a background of decisions determined by Local Planning Authorities under the Town and Country Planning Act 1900 and the by the Secretary of State through the Development Consent Order procedure under the Planning Act 2008.

Whilst it is acknowledged in the consultation that the thresholds will be under constant review to take account of the Silk Commission's recommendations (which are anticipated to come through in a draft Wales Bill 2015), there is currently no clarity on whether the interaction between the DNS regime and the Development Consent Order procedure under the Planning Act 2008. As an example, were the determination of onshore generating stations up to 300MW to be devolved to the Welsh Government, would the DNS threshold be revised upwards (e.g. from 50MW to 300MW) so that the DNS can accommodate these larger schemes (i.e. all schemes between 25MW and 300MW)? Or is it the UK Government's intention to transfer NSIP decision making to Welsh Ministers for schemes between 50MW and 300MW?

Another area of concern relates to applications for what would be "associated development" for NSIP applications in England, which cannot be included in a DCO in Wales. It appears that the St David's Day Agreement indicates that it is intended that associated development will, in future, be able to be included in a DCO application, which NIPA would strongly welcome.

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The Welsh Ministers' ability to compel an Applicant to include certain secondary consents connected to the planning application is of concern. An Applicant will be obliged to obtain certain secondary consents through other legislative provisions and sometimes planning permission is a prerequisite for the grant of those consents. An Applicant will normally have good reason for not seeking a consent at a particular time.</p> <p>A further point is that we do not consider that a developer should be compelled to have its DNS application delayed or 'paused' until the secondary consent is presented to the Welsh Ministers in its entirety where the Welsh Government considers a secondary consent application should be made to it as part of the DNS application.</p> <p>Otherwise, NIPA is broadly supportive of the proposals.</p>				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>We agree that this list should focus on the most likely consents to be relevant. We agree with all of the consents listed, though we make a comment below on</p>				

Consultation reference: WG25023

section 226.

We think the list could usefully be extended to cover those consents listed below, as these are important consents for the schemes that require them:

- marine licence under section 65 Marine and Coastal Access Act 2009
- land drainage consent under section 23 Land Drainage Act 1991
- works consent under byelaws made under section 66 Land Drainage Act 1991
- works consent under byelaws made, or having effect as if made, under paragraphs 5,6 or 6A of Schedule 25 Water Resources Act 1991
- main river works consent under section 109 Water Resources Act 1991

We think that further thought is needed as to how inclusion of a CPO under section 226 of the Town and Country Planning Act 1990 would work procedurally, given that the CPO will be promoted by the local authority and most DNS schemes will not be local authority schemes.

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
NIPA is not convinced that the prior notification of a DNS application will assist the overall process. The reality is that a developer will deal with PINS well in advance of submission, in relation to EIA scoping and other matters and PINS will have plenty of notice of applications under preparation. The existence of this procedure will not make applications more or less likely to happen on a given timeline, as there will always be more important factors at play. If necessary, developers will simply notify more than once. If, however, Welsh Ministers are committed to the notification process then the minimum requirements proposed are sensible, though NIPA does not see the justification for a fee.

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

Consultation reference: WG25023

In respect of secondary consents (common land, compulsory purchase etc.) we do not consider that twelve months from the date of acceptance of the developer's notification to having to submit the application is an adequate or realistic timeframe. This period not only needs to accommodate pre-application consultation but also includes the without prejudice pre-application service to be offered by PINS. Again it is not a long enough period, especially if the DNS regime is to accommodate larger scale development proposed by the Silk Commission.

Comments received through the pre-application process do not always follow the prescribed periods; communities and statutory consultees may require longer to review environmental information etc. so the pre-application period should be extended.

The 36 week statutory period in which to determine the DNS application (from the validation of the application), also places a significant pressure on an Applicant to ensure that the application is adequate before that period starts.

We think that 2 years would be a more appropriate period, given the complexity and scale of the projects envisaged.

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

NIPA agrees with the principle of the publicity and consultation requirements, however, to comply with these procedures and to allow adequate periods for response, for these responses to be taken into consideration, for further information to be provided to the community/statutory consultees, to prepare the 'pre-application consultation report' or for the intended application to be amended to reflect these changes, may require more than twelve months to achieve this for some applications.

It should be up to the developer to determine how long it has and how many rounds of consultation it is required to do before submitting the planning application to the Welsh Ministers (especially when considering the restrictions a developer will have on being apply to amend the planning application once it is formally submitted to PINS i.e. one opportunity for the applicant to proactively make an amendment and it being unclear what approach PINS will take in terms of a 'flexible approach' to amending schemes post-submission).

NIPA is concerned at the proposal that consultation must take place on a full draft of the application. NIPA's experience of the NSIP regime is that it is essential that the developer has some discretion as to the consultation documents. If the requirement of a full draft is imposed it may produce the

Consultation reference: WG25023

perverse effect of making developers less likely to respond to requests for changes because of the disproportionate effort and cost of re-opening a full worked up application.

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: From NIPA's extensive experience of the use of SoCGs in the NSIP process we think the balance struck here is correct. SoCGs are often valuable, but sometimes are not the most effective use of time. They should be encouraged, but not expected in all circumstances.				

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: There is a balance to be struck between wanting the benefits of a defined timetable and allowing parties a fair opportunity to participate. NIPA considers that 5 weeks is an appropriate period, given that there will have been pre-application consultation and the main issues raised by the application should have been clear at that stage.				

Consultation reference: WG25023

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

NIPAs experience is that amendments to NSIP applications continues to be a difficult area in relation to the Planning Act 2008 regime. Amendments are inevitable in relation to complex schemes. Developers find that they are criticised for making amendments, but also criticised for seeking too much flexibility. The issue is striking the balance as to when they can fairly be allowed, and when they are postponed for post-consent considerations.

NIPA considers that the current proposals are a significant improvement from the previous proposals. However, the process should not entirely rule out the possibility of amendments after the 10 day period.

The possibility of the process being paused at the request of the developer if an amendment takes time to put together, and potentially advertise, is a good idea.

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Yes. It may assist if parties are requested when making their representations to set out what procedure is considered appropriate, with reasons, and for applicants to be encouraged to do the same with the application. This would be likely to assist the Planning Inspectorate in reaching its decision within this period.

Consultation reference: WG25023

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Whilst it is acknowledged that statutory consultees and third parties will have five weeks within which to submit their statement of case, it may be that further submissions relate to matters which were unforeseen. It could be that any further representation over 3,000 words needs to include a precis of up to 1,000 words (as is the procedure in public inquiries for proofs of evidence).</p> <p>Overall, NIPA does not support an absolute word limit. It helps to be encouraged to keep to a word limit, but there are times when a case will need to be made which is longer.</p>				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Yes. On the basis that all documents submitted as part of the application process are available electronically on PINS Wales' website (as set out in the consultation report) and can be provided to members of the public at the Applicant's discretion and subject to an appropriate fee.</p>				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

Comments:

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Yes. It is NIPA's experience that many local authorities are working on their Local Impact Report in advance of submission, though this is not always the case. 5 weeks seems reasonable.

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
NIPA's experience of the NSIP regime is that the application fees are extremely high. The planning system historically has not been run on a full recovery basis, for public interest reasons, and there is a concern that high fees for the DNS regime could discourage developers in some circumstances, particularly if there is significant uncertainty over their level in advance when budgets are being prepared, which is a feature of the NSIP regime.

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
A fee is not paid for a Local Impact Report under the NSIP regime. The vast majority of local authorities submit such reports even though they are optional.

Consultation reference: WG25023

NIPA does not consider that a specific fee is appropriate for preparation of such a report as it is reasonable to regard this a part of the local authority's planning function.

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
NIPA's experience of Local Impact Reports in the NSIP regime is that they are almost always submitted on time by local authorities. As already stated, NIPA does not consider that a fee is appropriate. If, however, it is included then we do not think a financial penalty of this type is necessary.

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
The Planning Inspectorate should work with the Applicant in a positive and proactive manner. Where an application is invalid the Applicant should be given guidance following its refusal and rather than have to pay a full application fee on resubmission, the Planning Inspectorate should apportion a fee to the cost of having to provide the additional comment and registering the resubmission (which would be proportionate and fair).

Applicants and their advisors on major projects already have a huge incentive to get their applications right and accepted first time and this penalty will not assist matters in NIPA's view.

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
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Consultation reference: WG25023

		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>It is not clear what happens if an application which would otherwise be a DNS application is submitted on the basis that it is an outline application. NIPA's experience of the NSIP regime is that there continues to be difficulty with the expectation of the level of detail to be included in a DCO application. Most complex projects need to leave much detailed design to the post-consent phase, when contractors have been appointed and full funding secured, and any system for consenting such complex projects needs to recognise this. The definition of an 'outline' application is such that the policy intent behind this limitation under the DNS regime is not clear. NIPA agrees that if a 'bare' outline consent were to be submitted then that would be inappropriate as a DNS, but there are certainly degrees of 'outline' applications which ought to be entirely acceptable as DNS applications. NIPA hopes that a pragmatic approach will be adopted by Welsh Ministers on this matter.</p> <p>The provisions relating to the issue of suspension notice (delaying the DNS timeframe) are ambiguous. Unforeseen occasions from the date of validation should be foreseeable and the DNS application should not be unduly delayed. In addition, this appears to be a unilateral decision on the part of the Welsh Ministers with no input from the Applicant being accommodated for.</p> <p>Mediation</p> <p>NIPA considers that the Welsh Government could usefully seek the increased use of mediation and mediation techniques in the DNS consenting process. This is supported by the Bar Council's ADR Committee, the Civil Mediation Council and the Chartered Institute of Arbitrators.</p>			

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Barbara Vest	
Organisation	Energy UK	
Address	Charles House 5-11 Lower Regent Street London SW1Y 4LR	
E-mail address	barbara.vest@energy-uk.org.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input checked="" type="checkbox"/>

	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
Q1		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Energy UK's members include those that generate; transmit; distribute; receive or store energy (both gas and electricity). Therefore, our comments are focused on those categories and thresholds pertaining to energy infrastructure development:</p> <p>1) Underground gas storage / LNG Facilities Threshold - working capacity of at least 43 million standard cubic metres or a maximum flow rate of at least 4.5 million standard cubic metres per day</p> <p>Energy UK supports the thresholds proposed for underground gas storage and LNG, these being aligned with the Planning Act 2008 Nationally Significant Infrastructure Project (NSIP) Regime.</p> <p>Energy UK also supports the same thresholds applying where an Underground Gas Storage or LNG facility is being increased.</p>				

Consultation reference: WG25023

2) Gas Reception Facilities Threshold - The maximum flow rate of the facility is expected to exceed or to increase by at least 4.5 million standard cubic metres per day.

Energy UK supports the proposed threshold for gas reception facilities, this being aligned to the NSIP regime threshold.

3) Overground Pipelines constructed by a gas transporter threshold - construction of a new pipeline (including the extension or diversion of an existing pipeline) over 2km and less than 16.039km in length wholly or partly in Wales.

Public Gas Transporter Pipelines currently fall under permitted development and Energy UK is of the view that such pipelines should not be classed as DNSs, as this would go against the Welsh Government's own objectives of putting in place a streamlined planning system in Wales which does not place unnecessary burden on statutory undertakers.

4) Onshore Energy Generating Stations - 25MW to 50MW.

Energy UK generally supports the threshold for onshore energy generating stations being 25MW, but wishes to clarify, whether the upper threshold should be 49MW (instead of the proposed 50MW), in light of the current NSIP regime threshold being 50MW and above for onshore generation.

Additionally, we would welcome further clarity in light of the UK Government's announcement confirming a Wales Bill, which will devolve to Welsh Ministers consenting powers for energy generating stations up to 350MW. Energy UK supports the view that, following devolution of consents for energy generating stations of up to 350MW to Wales, the proposed 25MW to 50MW threshold for Developments of National Significance (DNSs) should be amended to cover these projects, so that the threshold for DNSs would become 25MW to 350MW.

Equally, in the light of the UK Government removing the Secretary of State from consenting decisions on onshore wind energy developments, we would welcome clarification, as to how this will affect such development in Wales. Energy UK supports the view that, in line with the proposals for DNSs, any onshore wind project above 25MW should be decided by the Welsh Ministers under the DNS process.

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Energy UK supports the principle (as outlined in Paragraphs 3.1 & 3.3) that an applicant for a DNS will have the option of submitting certain connected applications, licences, orders, notices and consents to Welsh Ministers at the same time, and following the same process as the main application for a DNS.</p> <p>We believe it is vital that this remains the option of the developer to either include secondary consents with their main application, or choose to apply for them separately, as each development will have individual circumstances, which will require different approaches and potentially different timescales in terms of individual consents or licences etc.</p> <p>However, we note in Paragraph 3.4 that it is intended that Welsh Ministers can recommend to developers that they should submit certain additional secondary consents at the same time from the proposed list, and that any pre-application consultation undertaken following the initial notification must include details as to the secondary consents that are intended to be applied for.</p> <p>Equally, in Paragraph 3.6 it is proposed that Ministers will be permitted to use powers to 'call in' an identified secondary consent if they consider it to be connected with an application for a DNS and the developer has not submitted that matter as a secondary consent to the primary DNS application.</p> <p>Energy UK is concerned that:</p> <p>a) any recommendation from Welsh Ministers to include secondary consents within a developers' primary application for a DNS will be construed by the developer as necessary in order to secure consent for a project. Whilst in some cases it will be beneficial for a developer to include secondary consents within a DNS application, this may not be appropriate in other cases, and we believe that the inclusion of secondary consents with a primary DNS application must always remain the option of the developer, without any coercion from other parties.</p> <p>b) Equally, the intention for Ministers to be able to subsequently use powers to call in secondary consents associated with a DNS, albeit such powers will be used rarely, means that developers may feel obliged to include all secondary consents at the same time as submitting their primary DNS application to avoid the risk of them being called in at a later date.</p> <p>Energy UK is keen to understand under what circumstances it would be intended that Ministers could call in secondary consents associated with a primary DNS application.</p>				

Consultation reference: WG25023

Energy UK believes that the ability for Welsh Ministers to recommend secondary consents associated with a DNS, will in reality remove the flexibility of a developer to apply for secondary consents separately if they choose. Whilst recognising that in determining an application for a DNS, Welsh ministers will wish to understand the total impact of a proposed project, there may often be occasions when a developer will wish to secure primary development consent before applying for secondary consents, which can be costly and resource-intensive. Energy UK therefore urges Welsh Ministers to adopt a more pragmatic approach.

We note the proposed variations to the processes for secondary consent applications and are generally supportive of them, provided that the unfettered choice remains for a developer to include secondary consents alongside a primary DNS application or apply for them separately. This is particularly important in respect of:

a) The secondary consent(s) being subject to the pre-application consultation procedure of the primary DNS - Whilst we strongly support early and meaningful engagement with Statutory Consultees during the pre-application stage, Energy UK is keen to understand how the full pre-application consultation stage will apply if a Welsh Minister i) recommends the inclusion of secondary consents not initially included with a primary DNS application, or ii) calls in certain secondary consents that have not previously been consulted upon as part of pre-application consultation.

In order to comply with the full pre-application consultation requirements, which include not only consultation with Statutory Consultees, but also with other parties, such as local planning authorities and the public, a developer would have to potentially re-consult fully on any secondary consents, or prepare all their secondary consents at the same time as their primary DNS application in order to consult upon them in case they were recommended or called in by Ministers. As explained above, developers may choose to delay applying for secondary consents (with all the resource implications and expense this incurs) until they have secured their primary DNS consent, and this approach seems to undermine that option.

b) Timescales - Again, this seems to indicate that secondary consents will be subject to full pre-application consultation with all interested parties, rather than just Statutory Consultees.

c) Fees - Energy UK welcomes the costs of administering secondary consents being incorporated into the overall fee for the DNS application, based on Inspector resource, rather than the size of a development, subject to such costs being clear and transparent, based on the relevant government guidelines, cost-reflective with no element of profit, proportionate and reasonable.

d) Consenting Authorities - Energy UK welcomes the requirement to consult with the usual consenting authority, and that they will be required to issue a substantive response, within a defined timescale from receipt.

Consultation reference: WG25023

Energy UK agrees with the criteria set out in Paragraph 3.13 to define those applications included in the list of secondary consents.

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Energy UK supports the proposal for the Inspector to determine procedure for secondary consents, subject to the following comments:

a) As confirmed in Paragraph 3.9, should the developer choose to incorporate secondary consents within their DNS application, the timelines for secondary consents should be aligned with the primary DNS application timelines, and not subject to unnecessary elongation in any way.

b) Any procedures should be proportionate, reasonable, and necessary, and not place onerous burdens on developers, local planning authorities, Statutory Consultees or other interested parties.

c) Any procedures should not lead to unnecessarily burdensome requests for additional information being made to developers e.g. requests for two years of bird surveys when one year of results will suffice.

d) Any procedures should ensure that Statutory Consultees are required to respond with substantive comments within a prescribed timescale, subject to them having received sufficient information from the developer to do so.

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Energy UK agrees with the proposed list of secondary consents. We are concerned, however, that associated development that would normally require planning permission under the Town and Country Planning regime is to be treated as secondary consents, requiring a separate, albeit connected planning application. Energy UK strongly recommends that such development should be capable of being included in the DNS application itself, without the need for a separate planning application.

We also note that there are a range of other consents which would commonly be required to construct major projects and which are devolved matters in Wales,

Consultation reference: WG25023

but which are not included in the scope of secondary consents. Examples include:

- a) consent to work on trees protected by Tree Preservation Orders, highways consents required under the Highways Act 1980 and land drainage consents as well as other key environmental permits and licences.
- b) licences, permits, certificates and/or consents granted by Natural Resources Wales (NRW) and/or the Welsh Ministers under the Environmental Permitting (England and Wales) Regulations 2010; the Water Resources Act 1991; Conservation of Habitats and Species Regulations 2010; the Deer Act 1991; the Wildlife and Countryside Act 1981; the Protection of Badgers Act 1992; the Countryside and Rights of Way Act 2000; the National Parks and Access to the Countryside Act 1949; the Ancient Monuments and Archaeological Areas Act 1979; the Water Industry Act 1991; the Hedgerows Regulations 1997; and the Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003.

These are included on the list of consents and authorisations that may be granted as part of a Development Consent Order under the Planning Act 2008 NSIP regime (subject to the consent of the normal consenting body).

Energy UK would strongly encourage Welsh Ministers to keep the list of secondary consents under active review in any event, so as to provide the option of including all necessary secondary consents in the DNS process.

In addition, and as referenced in our answer to Question 1, Energy UK wishes to re-stress the importance of it always being an option for developers to include the proposed secondary consents with the primary DNS application or not. This is key, as each development and its circumstances will be different, and developers may not wish to incur additional expense or significant resources in preparing certain secondary consents, until they have secured the primary development consent.

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Energy UK supports the principle of notifying the Planning Inspectorate (Wales) (PINS) of the intention to submit a DNS application. However, we are uncertain as to the reason why the Welsh government intends to preclude developers from undertaking pre-application consultation prior to notifying PINS.

Whilst, we understand the need for PINS / Welsh Ministers to have sight of future DNS applications, to ensure appropriate resources are available to manage

Consultation reference: WG25023

applications in a timely and effective manner, initial pre-application consultation, particularly with Statutory Consultees and local planning authorities can sometimes result in a developer deciding to radically change their development proposals, or even not progress with an application at all.

We would therefore suggest that informal consultation prior to formal notification should not be completely disregarded. Otherwise this could discourage early engagement.

Additionally, we note that within Paragraph 4.17, that it is proposed that the notification of the intention to submit a DNS application should include:

"The identification of which of the prescribed secondary consents the developer would like to be considered by the Welsh Ministers."

As highlighted above, this seems to assume that secondary consents will always be submitted alongside the primary DNS application, and undermines the initial statement at the beginning of this consultation, that submission of secondary consents is voluntary, and an option for developers.

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Energy UK is unclear as to why the Welsh government wishes to set a prescribed period for pre-application consultation for a DNS application before it must be submitted. Energy UK is generally in favour of prescribed periods for each stage of the consenting process once a DNS application has been submitted, as this provides certainty for developers around the timescale for decision-making. However, each individual DNS will have different circumstances, and so may require more or less pre-application consultation, including the option for additional consultation if initial pre-application consultation results in a developer significantly changing their proposals.</p> <p>Energy UK would be concerned if setting a time limit from acceptance of notification by PINS to completion of pre-application consultation resulted in:</p> <ul style="list-style-type: none"> a) developers potentially submitting an incomplete or rushed DNS application. b) failure to complete pre-application consultation within the specified timescale would require the developer to start from scratch, when continued consultation 				

Consultation reference: WG25023

with key stakeholders would result in a better, more acceptable, more complete DNS application.

This would seem counter-productive in terms of ensuring that all relevant stakeholders, including affected communities are properly consulted, and could delay good quality developments being brought forward if they have to commence the process from the beginning if they miss the proposed arbitrary 12 month deadline.

However, we note that PINS might be able to grant a short extension upon request from the developer, and we are keen to understand in what circumstances this might arise.

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

Energy UK supports the principle of meaningful and proportionate pre-application consultation for Developments of National Significance, as this provides energy developers with invaluable early information from Statutory Consultees, local planning authorities and the host community. Such information can help shape the design and / or location of a planned development, and can in some cases save a developer from spending large sums of money on pursuing a particular site which will not be suitable due to certain reasons e.g. the presence of a protected species.

Paragraph 4.24 - Energy UK is concerned about the proposal to require applicants to supply and publish a complete copy of the planning application for a DNS. The application is likely to be amended based on the responses received during consultation, and so the final application submitted is likely to be different to that publicised. If a complete copy of all application documents were to be required at pre-application stage, this would place a significant burden on developers. We strongly recommend that applicants should be required to publish sufficient information to allow stakeholders to comment on the proposed development, rather than requiring a complete draft of all application documents. This works well within the NSIP regime.

Paragraph 4.25 - Energy UK acknowledges the proposed publicity proposals, and confirms that energy developers already follow the Circular 32/92 in respect of publicising major energy projects.

Paragraph 4.26 - The suggested content of notices and letters publicising the proposed development seem appropriate and reasonable to Energy UK.

Consultation reference: WG25023

Paragraph 4.27 - We support the need to provide an accessible location near the proposed development site, for the community to view the application, and we also support the publicising of the application on a website.

Paragraph 4.33 - Energy UK members are used to following a similar process of producing a consultation report when developing Nationally Significant Infrastructure Projects (NSIPs). The Planning Act 2008 NSIP regime requires a Statement of Community Consultation to be produced, which generally contains the same information as proposed in Paragraph 4.33. In particular, we welcome item c) which allows a developer to provide a summary of the issues raised, rather than addressing every single individual comment made by respondents. However, Energy UK is concerned about the proposal to require applicants to provide copies of all of the responses from consultees. Instead of this, we suggest that applicants should be required to supply any consultation responses to PINS on request only. This would align with the NSIP arrangements.

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Energy UK supports the proposed publicity arrangements outlined in Table A, as a reasonable and proportionate approach to ensuring all interested parties are properly consulted.				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Energy UK concurs with the approach proposed for Statements of Common Ground (SoCG) to not place a statutory requirement on such statements for all DNS applications.				
We note the intention that a SoCG should be submitted within 5 weeks of the notice of validation of a DNS application, but that later statements may be submitted where helpful to the examining Inspector. This is particularly important, as developers will continue discussions with Statutory Consultees, local planning authorities and other interested parties throughout the process,				

Consultation reference: WG25023

with a view to resolving issues and achieving common ground, and limiting submission to within 5 weeks of the validation notice will unnecessary curb the ability to secure SOCGs.

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Energy UK considers that 5 weeks is an appropriate maximum period within which Statutory Consultees and third parties should submit their full representations in response to an application for a DNS.

Paragraph 5.25 - Energy UK is concerned regarding the proposal for PINS to be able to exercise discretion in considering whether to accept later representations, as this would enable those wishing to prevent a development to frustrate the progress of the application being considered. We suggest that if such discretion is to be allowed at all, that it should only be so in extremis, and we would welcome clarification as to what circumstances the Welsh government considers would result in PINS being able to extend the timescale for responses.

Paragraph 5.27 - Energy UK welcomes the expectation that Statutory Consultees will provide a 'substantive response,' to the consultation at the pre-application stage, and to the consultation on the submitted application. We note that developers can enter into a Planning Performance Agreement (PPA) where appropriate, but would stress that:

a) PPAs should always remain a voluntary option that a developer can negotiate with Statutory Consultees to deliver a faster, more effective advice service, with an agreed price for an agreed level of service / specific deliverables.
b) PPAs should not be for the performance of statutory duties e.g. advice on a submitted application.

Paragraph 5.28 - Energy UK:

a) Strongly welcomes the need to ensure that consultees adopt a positive role in helping to find solutions to enable developments to proceed.
b) Supports the requirement for Statutory Consultees to provide a 'substantive response' within the 5 week period.
c) Agrees with the definition of a 'substantive response.'

Consultation reference: WG25023

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Energy UK generally agrees with the proposals for the amendment of schemes for a DNS, as schemes are nearly always amended as a result of pre-application consultation.</p> <p>However, if allowed, those objecting to a development proposal may hold off submitting their responses until the formal application process consultation, and potentially towards the very end of that consultation. The ability for a developer to amend their scheme to address such concerns may enable the development to proceed, having addressed any new concerns raised.</p> <p>For this reason, we support the proposed 10 working days from the closing day of the consultation to enable a developer to respond appropriately with notification of the intention to bring forward an amendment, including details of the proposed change.</p> <p>However we would like to highlight that there could be cases where a consultation response to the application consultation raises issues that require advice from one or more Statutory Consultees or the local planning authority in order to provide the best possible outcome. To secure a response from these bodies and then bring forward the basic details of an amendment to be brought forward may take more than 10 working days. It would be helpful if copies of representations could be supplied to applicants as they are submitted, rather than in a single submission after the consultation period has closed.</p> <p>Also, it is not clear what would happen in the event of a failure to give sufficient details when notifying the intention of an amendment. Would failure to do so result in the application being refused for consideration, even though the detail of the amendment will follow when it is submitted in full?</p> <p>Energy UK suggests that Welsh ministers might like to make provision for PINS to be able to extend the 10 day timescale in exceptional circumstances, as we believe this could result in a better outcome for all parties involved. In those circumstances we suggest that PINS and the developer agree a timescale by which the developer will submit an amendment to address any particular new points of information, and that during that time the statutory timescales of the DNS application process are put on hold.</p> <p>Energy UK welcomes the acknowledgement that there may be material amendments that could resolve adverse comments made by Statutory Consultees and third parties, and result in a more acceptable overall scheme that can go</p>				

Consultation reference: WG25023

ahead. We therefore support the proposal that it should be at the discretion of the Inspector examining the application for the DNS to accept it and decide whether additional consultation is required and to what extent.

However, we note that no further consultation will be allowed following any revisions to the DNS application arising from the initial consultation. This seems to render any further consultation process irrelevant, as there may be some valuable advice or responses that could further refine the application and gain greater acceptance from interested parties.

Specifically regarding the proposal for local planning authorities to handle applications for minor material amendments; and non-material amendments to consented DNS applications, Energy UK is concerned that local planning authorities could use these powers to delay or prevent a development that has already received original consent from Welsh Ministers from going ahead, and cross-boundary applications could introduce further complications.

The relevant Secretary of State determines non-material amendments to consented NSIPs under the Planning Act 2008 NSIP regime after the applicant has consulted with the relevant bodies (including local planning authorities) in advance of submission. Rather than submitting minor material and non-material amendments to the relevant local planning authority (or authorities) with an associated right of appeal (which could add months to what is meant to be a relatively straightforward process), Energy UK strongly believes it would be more efficient and cost-effective for PINS or the Welsh Ministers to have responsibility for determining these from the outset.

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Energy UK believes that 10 working days to determine the appropriate procedure to examine an application for a DNS is appropriate, given that PINS will have been aware of the DNS application for up to a year prior to its submission.</p>				

Consultation reference: WG25023

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

Energy UK recognises the attractiveness of limiting further representations to a maximum of 3000 words, given the opportunities for respondees to respond during pre-application and to the consultation undertaken once the application has been accepted.

But we are concerned that the imposition of an arbitrary word limit increases the potential for Judicial Review, with objectors saying they were prevented from properly raising matters which should have been material considerations for the Inspector and Welsh ministers.

A potential alternative solution, might be to require that any further representations must only provide commentary that covers matters that could not reasonably have been previously raised during pre-application consultation / the application consultation, or new information that has arisen since then. We recommend that this solution should be accompanied by appropriate safeguards to prevent objectors delaying raising matters until the very last minute, which the applicant might find hard to respond to within the timescales for examination.

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Given the rise of the use of the internet, but recognising that there are still parts of any community who do not use it, we believe that the requirement for the applicant to submit paper copies of an application for a DNS to PINS and to the local planning authority(ies) within which the DNS is located, strikes an appropriate balance. This will ensure that a paper copy is accessible at the local council offices, should anyone in the host community wish to view the application in hardcopy form.

Consultation reference: WG25023

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Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Energy UK generally supports the proposed minimum requirements for Local Impact Reports (LIRs), but would suggest that in addition to the listed impacts that a LIR might include (Paragraph 6.16), it would be helpful to include the positive impacts of a potential development e.g. jobs, impact on the local economy, and any S106 commitments (if known).

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
Energy UK believes that a period of a maximum 5 weeks for a local planning authority to produce a local impact report is a reasonable period, given that the authority would have been actively involved in the development during pre-application consultation stage, and may well have already been called upon to give advice to the developer as to potential impacts and with whom to consult.

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Energy UK understands the need for Welsh government / PINS to recover its costs in carrying out their duties under the Planning (Wales) Act 2015 in managing any DNS application and determining whether to grant consent.

Consultation reference: WG25023

In the context of recognising that there will be fees to cover the costs of Welsh ministers and PINSs in respect of the DNS application process Energy UK agrees that the fee structure should consist of fixed and daily or hourly rate fees, provided that:

- a) The calculation of any fixed fee or daily or hourly rate is proportionate, reasonable, on a cost-reflective basis, and in line with government guidelines for charging for services.
- b) This is particularly important, given the range of differing DNSs and the variation in complexity, impacts and matters for consideration in determining a specific application. For instance, a simple DNS application may not require a Hearing or Inquiry, and so the resources needed may be significantly less than a complex and / or controversial application that has attracted large numbers of representations and / or conflicting advice from Statutory Consultees and / or local planning authorities.
- c) Specifically, any application fees should be proportionately less than those paid for applications under the Planning Act 2008 Nationally Significant Infrastructure Project (NSIP) regime, given that those projects are likely to be more complex and / or controversial than DNSs.
- d) Any daily or hourly rates should be transparent and in line with those already charged by Welsh government or PINS in relation to the provision of planning services e.g. in respect of appeals or call-ins.
- e) Any costs should be efficiently incurred, and in respect of pre-application consultation advice, it is important to ensure the developer understands upfront the type and level of pre-application advice they will receive and in what timescales.
- f) We recognise that PINS may incur other costs such as venue costs for hearing and inquiry procedures; legal and assessor costs. Energy UK believes it is important for PINS, in fulfilling their duties in respect of the DNS application process, to have a duty to minimise costs wherever possible.

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Energy UK supports the provision to a local planning authority of a fixed fee for producing a Local Impact Report (LIR), subject to: <ul style="list-style-type: none"> a) The LIR being provided within the proposed 5 week timescale. b) The LIR being to the required standard. c) The proposed fee being reasonable and proportionate, on a cost-reflective basis, and in line with government guidelines for charging for local planning authority services. 				

Consultation reference: WG25023

it is vital that local planning authorities are sufficiently resourced, with knowledgeable, experienced staff to provide invaluable expert advice to developers and PINS.

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 Energy UK generally believes that a local planning authority should only receive the proposed proportionate payment if they submit a quality LIR within 5 weeks, as this will incentivise their timely provision.

Given that the LIR is intended to be 'a technical and factual document which contains information relating to the development and its impact on the area it is situated in', and that the local planning authority would have been engaging with the developer during pre-application consultation, Energy UK believes that the authority should be able to prepare a LIR within the proposed 5 week period.

The LIR is an important document, and failure to submit within the 5 week period could unnecessarily delay the determination of a DNS, as PINS would be likely to deem the LIR as critical to their considerations.

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 Energy UK understands the need to recover the costs of the respective parties involved in advising, considering or determining a DNS application, and the proposal that in the event of an invalid application, not all of the fee will be refunded.

Energy UK believes that an early check on whether an application is invalid would be beneficial for all parties, and particularly limit the costs incurred / wasted effort by PINS staff, thereby allowing the refund of as much of the fee as possible. Of course it is hoped that close liaison with all relevant parties (PINS; Statutory Consultees; local planning authorities) would minimise the possibility of a invalid application being submitted at all.

Consultation reference: WG25023

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Energy UK is generally supportive of the Welsh government proposals for DNS applications. Within the context of our overall support we wish to make the following further points:

THE APPLICATION PROCESS

a) Validation - Paragraph 5.6

Energy UK is concerned regarding the proposal to allow PINS 42 days to validate a DNS application which is an EIA development. Under the Planning Act 2008 NSIP regime, which arguably deals with more complex developments, PINS are under a statutory obligation to 'accept' (akin to 'validate') all applications within 28 days. Energy UK therefore suggests that all DNS applications should be validated within 28 days.

a) Examination - Paragraph 5.47

Energy UK notes the intention for an Inspector to have discretion to permit other parties at any time during the examination period to participate in the hearing and / or inquiry who had not previously been specifically invited.

Energy UK is concerned that this might encourage those objecting to a proposed development to hold back in raising their objections, only to request involvement late on within the Examination stage. This would hamper developers from adequately addressing any concerns they might raise, which could result in the project not receiving consent. We therefore suggest that the Welsh government include safeguards to ensure that interested parties engage, and raise any concerns, at the earliest possible stage (i.e. pre-application consultation).

b) Decisions - Paragraphs 5.56 & 5.57

These paragraphs set out the ability for Welsh ministers or PINS to pause the statutory timetable for determination, and some of the key circumstances in which this might happen.

Wales has committed to major investment in renewable energy, which requires a multi-billion pound investment programme. Energy UK recognises that the Welsh government may in the future need to change the Strategic Development Plan or the National Development Framework (NDF). However, in order to deliver the

Consultation reference: WG25023

necessary investment, a stable energy and planning policy framework is necessary, and so Energy UK urges the Welsh government to finalise the NDF and make changes only when absolutely necessary e.g. when a new technology emerges or there are significant technology developments.

Additionally, Energy UK is concerned that the bullets in Paragraph 5.57 may lead to:

- A local planning authority who is not in favour of a particular development choosing to review their Local Development Plan as a way of delaying its progress.
- Essential parties that object to a particular development failing to attend a hearing or inquiry without notice, as a means of delaying a development's progress.
- Bodies or interested parties not in favour of a development delaying the submission of their important representations, in order to delay a development's progress.

Energy UK agrees that there should be an ability to pause the DNS process, but there need to be appropriate safeguards to ensure that this is not used to hold back development.

THE ROLE OF LOCAL PLANNING AUTHORITIES

c) Local Impact Reports - Paragraphs 6.10 to 6.23

Paragraph 6.10 - Energy UK supports the proposal for it being a requirement for local planning authorities to submit a LIR for a DNS within their area. This will ensure that all relevant local information is considered.

Paragraph 6.12 - Energy UK welcomes the encouragement of the submission of joint LIRs where a DNS affects a wider area, but where this is not possible, we believe that the drive to submit a joint LIR should not impact on the ability of local planning authorities to meet the proposed 5 week timescale.

Paragraph 6.13 - Energy UK welcomes the confirmation that the LIR is not intended to express political views; recommendations or a balancing exercise on the acceptability of the DNS. Instead, the local planning authority, or indeed individual councillors may make their views known through representations.

Energy UK supports this separation of the various local planning authority roles. This provides clarity and transparency, and ensures the factual information surrounding the proposed site and potential impact of the development is not conflicted or confused by any political views or recommendations, which should be considered alongside all other representations.

Paragraph 6.18 & 6.19 - Energy UK welcomes the commitment to a formal notice being issued to confirm by what date a LIR must be submitted. Paragraph 6.18 introduces a requirement for Welsh ministers to issue a notice in writing to each relevant local planning authority requiring them to submit a LIR, including the deadline by which time the LIR must be submitted. Whereas Paragraph 6.19

Consultation reference: WG25023

requires PINS, where they give notice that an application for a DNS is considered valid, to also issue a notice to the relevant local planning authority (ies) to specify the deadline of 5 weeks within which a LIR must be submitted.

These two notices appear to duplicate one another. As Welsh ministers are planning to delegate the management of the application process to PINS, including examination of DNSs, Energy UK believes it would be sensible for them to also delegate the responsibility to send a notice in writing requiring local planning authority (ies) to submit their LIR by a specified date. This could allow a single notice to be sent in writing to the local planning authority(ies) confirming that an application for a DNS is valid, and, on behalf of Welsh Ministers, requiring them to submit their LIR by the specified date.

Paragraph 6.20 - Energy UK notes the intention to 'put in place measures to ensure that LIRs are submitted by LPAs within the prescribed deadline.' We would welcome clarity as to what measures (other than the payment of a fee) are intended to ensure timely submission of LIRs within the 5 week period.

Paragraph 6.23 - Energy UK supports the proposal that Voluntary LIRs that do not comply with minimum requirements will be treated as individual representations.

Planning functions following the determination of a DNS - Paragraph 6.24 to 6.31

Paragraphs 6.26 & 6.27 - Energy UK notes that post-consent it is the intention for local planning authorities to handle applications for removal or varying of conditions; minor material amendments; non-material amendments; and the discharge of conditions.

Energy UK wishes to stress that it is important that, in considering minor material or not-material amendments, local planning authorities do not unnecessarily seek to delay or prevent a development going ahead that has already received consent from Welsh ministers. In particular, it would be helpful if:

- Welsh government made clear to local planning authorities that they should consider any proposed amendments and any mitigation in the spirit of looking to enable the amended development to proceed wherever possible, given that the development had already received consent from Welsh ministers in its original form.
- Whilst Paragraph 6.29 helpfully confirms that the right of appeal to Welsh ministers will remain should an application to amend a consent be refused, or not determined within the prescribed timescale, the appeals process will add additional delay, costs and administrative burden to the developer, and other interested parties.
- To avoid the need to appeal, we suggest that Welsh government could introduce safeguards to avoid consented energy projects being refused if developers bring forward appropriate amendments that can be properly mitigated, without additional detrimental impact.
- Additionally, Welsh government could set out some guidance as to the criteria whereby a local planning authority might reasonably refuse a proposed

Consultation reference: WG25023

amendment to a DNS consent, making clear the likely valid reasons for refusal, which should not take into account any lack of political support from the authority / councillors for the original development.

Paragraph 6.30 - Energy UK notes that it is intended that a post-determination amendment that is more than minor material will require an entirely new application for the DNS to be submitted to Welsh ministers, and that applicants will be encouraged to put those amendments before the local planning authority in the first instance.

In light of the risk of a material amendment resulting in a developer having to commence the application for a consent of a DNS project from the beginning, Energy UK believes that it would be very helpful to define "material"; "minor-material"; and "non-material".

We welcome that Welsh ministers will be able to call in the application to amend a DNS permission if they consider that it is of more than local importance, but suggest that developers should also be able to request that Welsh ministers consider a material amendment, without the need to commence proceedings from the beginning.

Recent changes under the Planning Act 2008 NSIP regime have introduced the ability for a developer to bring forward both material and non-material changes post consent. There are sufficient safeguards within this process to enable appropriate consultation; further hearings / inquiries where appropriate; and rigorous examination. It is important to stress the value of being able to vary a consent after it has initially been granted. Many developers do not undertake the procurement process for design and / or build and operate of their proposed development until after they have secured development consent. This is due to the resource and cost implications of doing so. Often the procurement process identifies differences in design which could deliver positive community; aesthetic; operational or environmental benefits. Equally, technological developments can bring such benefits e.g. an improvement in technology that would reduce emissions or a change in design that would improve operational efficiency or the aesthetic quality of the development. Some of these could be deemed as major material changes, but would be beneficial to the host community, and Energy UK would urge the Welsh government to consider the option of all material changes being open to variation, subject to the appropriate consultation processes to ensure the views of interested parties are taken into account, including Statutory Consultees where appropriate.

APPEALS

The current planning appeals system allows Welsh Ministers to delegate the decision-making authority to the Inspector, including on applications that will in future become DNS applications. In fact, most appeals are determined by PINS Inspectors with only very few recovered for decision by the Welsh Ministers.

To reduce the burden on Welsh Ministers, the cost to applicants, and to speed up the DNS consenting process, Energy UK believes that the same powers of delegation should be applied to DNS applications (where appropriate). This can

Consultation reference: WG25023

be achieved by delegating all decisions to PINS and the Welsh Ministers utilising a call-in/recovery type procedure within a specified period following validation.

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How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-g@wales.gsi.gov.uk

Please include 'Developments of National Significance - WG 25023' in the subject line.

Post

Please complete the consultation form and send it to:

**Developments of National Significance Consultation
Decisions Branch
Planning Directorate
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ**

Additional information

If you have any queries on this consultation, please:

email: planconsultations-g@wales.gsi.gov.uk ; or

telephone: Lewis Thomas on 029 2082 3201

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Carole-Anne Davies	
Organisation	Design Commission for Wales	
Address	4 th Floor, Cambrian Buildings, Mount Stuart Square, Cardiff CF10 5FL	
E-mail address	cad@dcfw.org	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>As per our consultation response to Positive Planning and having experience in such projects ranging from road infrastructure, route options and grid connections, to tidal lagoons and wind renewables, DCFW's expertise should be drawn upon and promoters/applicants should be encouraged to seek DCFW comment on and input into Developments of National Significance, at the earliest stages and certainly in pre-application processes. There will be issues that warrant more than statutory responses.</p> <p>Whilst we understand that there may be few, we consider that the Commission should be notified of proposals and their nature. We will then be in a position to respond either with details of how to consult within clear timeframes, and on which aspects, or provide notification that we do not wish to comment/make representation.</p>				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Clarity will be needed on what constitutes 'Minor' amendments and published guidelines would be useful, especially for public understanding. In terms of representation or consideration of amendments - 'judgement' rather than 'discretion' should be exercised and justified by PINS.				

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

	specify an alternative timeframe.			
Comments:				

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Succinct and where appropriate diagrammatic documentation would be more helpful for transparency, brevity and decision making.				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: There may be land/ownership/designation other material items that extend beyond area boundaries or the boundaries of the proposal. It is necessary to explain how this will be dealt with.				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

Comments:

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

	Report within the timescale and minimum requirements? If not, why not?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We reiterate our earlier comments submitted for Positive Planning.</p> <p>Early engagement with DCFW should be promoted in pre-applicaion processes.</p> <p>In our experience to date with NSIPs and the public consultation/SOCC/pre-submission process, there are some problems around what material is used for what purpose, and what capacity and capability exists within statutory and non-statutory consultees/LPAs to assess and comment upon it.</p> <p>There will also be key issues which relate to the level and quality of information provided and communicated on major developments, and the use of what are currently termed 'Design & Access' statements and these will be mirrored in DNS processes as they have been for NSIPs.</p> <p>There remain issues of clarity around the NDF, DNS, Strategic and Local plans. Greater clarity on this process and the future nature of NSIP processes would be helpful - it is not clear as currently presented and assumes a level of understanding that may not exist in all quarters, particularly for communities.</p>			

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Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Mike Webb	
Organisation	RSPB Cymru	
Address		
E-mail address	mike.webb@rspb.org.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input checked="" type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The use of the term ‘significant’ is understood and appreciated in this particular context however, clarification would be welcomed as to whether the definition of significance in this case conforms to and accords with other definitions of ‘significance’ given in certain European Directives and their transposing Regulations in the UK and Wales. We would suggest that the lack of consistency in the meaning of ‘significance’ throughout our domestic planning framework and European legislation and the failure to develop a common and robust understanding of the meaning of significance, does little to help a consistent, proportional and transparent approach to the determination of planning applications and engagement with stakeholders.</p> <p>Green infrastructure as a DNS Type:</p>				

Consultation reference: WG25023

The RSPB considers that, the Welsh Government should make explicit the means by which Natural Resource Management will be reflected in the new DNS development type. Work on the emerging Environment Bill indicates that the sub-regional element of NRM in Wales, expressed spatially, will be the Area Statement.

The RSPB therefore recommends that:-

- **Area Statements are formulated in such a way that they are capable of identifying and spatially expressing a nationally significant green infrastructure projects.**
- **The Welsh Government should specify such projects as DNSs in the forthcoming National Development Framework (NDF), pursuant to paragraph 2.13 of this consultation.**

It is accepted that DNSs will be pursued via inter-alia planning applications, and therefore it would be those elements such consented (and secondary consents) which will be the link to the specification of such GI projects as DNSs in the NDP.

The RSPB is keen to pursue this issue with both the Planning Act Team and the Environment Bill Team, and would be grateful for the opportunity to meet with you regarding this matter.

We further note and support paragraph 2.3 which states:-

"The types of development defined as DNS are those which will be of greatest significance to Wales because of their potential benefits"

We are firmly of the view that Strategic Green Infrastructure is of great significance to Wales due to its multiple benefits.

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

We would suggest that the principle of determining ‘secondary consents’ at the same time as a core application for DNS is to be welcomed since it might help enable an integrated consideration of a project as a whole, avoid ‘salami slicing’ and encourage consistency. However, whilst we consider the principle as sound, we are not convinced that the proposed procedure and list of secondary consents will achieve these objectives and enable an holistic consideration of all the issues associated with a DNS application. We have particular concerns that the process, as proposed, may create tension and confusion with statutory assessment processes, including EIA and HRA and that there is a need to reconsider the issue of "secondary consents" in the light of UK caselaw and European advice relating to associated and ancillary developments. We would recommend that the concept of ‘secondary consents’ should be extended and aligned to concepts of "ancillary and associated developments" in the EIA process (both existing and as proposed in Directive 2014/52/EU), in order to avoid confusion and potential tensions between the DNS project application process and application of the EIA process.

In principle, we welcome the proposals for a one stop shop for DNS development however, our support should be considered in the light of our comments above regarding the limited selection of proposed developments considered as being of ‘national significance’.

We note the use of the term ‘secondary consent’ and would suggest that additional clarification be provided regarding what might be considered as a ‘secondary consent’. As previously discussed, the great majority of proposed DNS developments suggested in this consultation document will need to be subject to the EIA process and we would therefore recommend that the concept of ‘secondary consents’ needs to be aligned to concepts of ancillary and associated developments’ in the EIA process in order to avoid confusion and potential tensions between the project application process and application of the EIA process.

With regard to the issue of associated development R v Swale BC ex parte RSPB 1991 states, ‘for the purposes of determining whether EIA is required, a particular application should not be considered in isolation if, in reality, it is properly to be regarded as an integral part of an ultimately more substantial development....In this context, it will be important to establish whether each of the proposed developments could proceed independently’. Additional interpretation on issues of associated and ancillary development have been provided, in the context of the EIA, in the EU Services interpretation of the Nordstream project in Finland.

Regarding the statement that ‘the Welsh Ministers may recommend to the developer that they should submit certain additional secondary consents’, clarification is required as to whether this refers to actual ‘consents or

Consultation reference: WG25023

permissions/approvals’ or to applications for so called secondary consents’.

We would suggest that the development of a ‘list of consents that are directly relevant to a DNS’, should be consistent with legal advice and guidance issued in respect of ancillary and associated development relevant to the EIA process. Where associated works are inextricably linked to the main project intervention (for instance when associated works predetermine the location of the main project or are exclusively intended to serve the main project intervention), then it is suggested that these works should also be considered as subject to the need for ‘secondary consents’.

Annex B.

Although not stated, it is assumed that the list of ‘secondary consents’ listed in Annex B is a proposed definitive, not indicative list of consents and permissions that may be considered by PINS alongside DNS applications. In the light of our comments above and the need for the proposed DNS process to be compatible with relevant statutory assessment processes, including EIA, we would suggest that the list of secondary consents presented in Annex 2 is incomplete and that additional consideration must be given to the inclusion of all potential consents/assents and permissions for secondary developments that might ‘be regarded as an integral part of an ultimately more substantial development’. It is not the responsibility of the RSPB to suggest a complete and definitive list of secondary consents that should be included within the proposed DNS process. The number, nature and type of secondary consents required to support DNS development will be dependent on the type of DNS proposed, its location and the availability of and need for resources and infrastructure to enable the development itself. When considering ‘secondary development’, reference should be made not only to UK caselaw but also to European interpretation of associated and ancillary development.

We would however, suggest that there are a few notable omissions from Annex B including;

- no reference has been made to ‘permitted’ developments which, should they require EIA as being an integral part of a an ‘ultimately more substantial development’ will require planning consent.
- no reference has been made to relevant consents/permits and licenses that may be required for water supply, water impoundment, wastewater discharge etc.
- no reference has been made to consents/permissions required under the Environmental Permitting Regulations
- no reference has been made with regard to licenses and assents/consents required in terms of protected species

Q3	Do you agree that the Inspector may determine procedure for secondary	Yes	Yes (subject to	No
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Consultation reference: WG25023

	consents? If not, why not?		comment)	
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
Responsibility for determination of many associated developments which might be regarded as an integral part of an ultimately more substantial development and which are required in order to develop and operate DNS development, will lie with Natural Resources Wales. Clarification is required as to how any potential tensions or conflicts between PINS (as determining the core DNS application) and NRW (as determining essential associated developments), will be resolved. Reassurance would also be required that NRW’s role as the competent authority for some associated development could be demonstrated to be truly independent and free from ‘undue and inappropriate pressure.

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
In the light of our comments above, and the need for the proposed DNS process to be compatible with relevant statutory assessment processes, including EIA, we would suggest that the list of secondary consents presented in Annex 2 is incomplete and that additional consideration must be given to the inclusion of all potential consents/assents and permissions for all secondary developments that might ‘be regarded as an integral part of an ultimately more substantial development’. The number, nature and type of secondary consents required to support DNS development will be dependent on the type of DNS proposed, its location and the availability of and need for resources and infrastructure to enable the development itself. When considering ‘secondary development’, reference should be made not only to UK caselaw but also to European interpretation of associated and ancillary development.

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
We would suggest that the requirements and procedures regarding notification of DNS need to include consideration of relevant statutory assessment processes

Consultation reference: WG25023

including EIA and HRA and enable ‘effective’ public and stakeholder participation not only in the DNS application itself, but also any EIA and/or HRA processes.

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: <p>We welcome the acknowledgement that early engagement between developers and stakeholders is vital however, we would suggest that engagement between all interested parties should be not only early but also ‘effective’..</p> <p>We note and in principle, support the intention to discuss ‘significant planning issues’ at the pre-submission stage but are disappointed that this consultation document and the proposed pre-application process makes scant reference to environmental concerns and to relevant environmental assessment processes. We would suggest that, in many cases, potential environmental issues arising out of DNS are likely to be more contentious and a greater cause of concern than ‘planning issues’. The revised and approved Environmental Impact Assessment Directive (2014/52/EU) contains many procedural changes in respect of project pre-application processes and EIA. This Directive must be transposed into UK legislation by May 2017 at the latest in order to avoid sanction by Europe. It would seem inappropriate at this juncture and given pressures on government finance, staff and capacities, to devise a policy and procedural framework for NSD which, by virtue to the interdependencies between potential NSD projects and EIA, will require overhaul and re-drafting within 18 months. We would therefore suggest that the proposed pre-application process as described be reconsidered so as to conform to the requirements of Directive 2014/52/EU</p>				

Consultation reference: WG25023

We agree with the range of publicity being suggested, but we believe that the proposed period of response for communities and statutory consultees to what is likely to be complex proposals, often supported by lengthy and detailed data and technical information, should be extended to 42 days (6 weeks) rather than the proposed 28 days. Where data is submitted by the applicant late in the process, communities and statutory consultees must be given sufficient time to respond to this, we suggest a time period of a further 42 days if the information provided is substantial or has the potential to significantly affect the views of objectors or consultees on the development.

We support the production of a pre-application consultation report, in particular the section which requires the developer to provide a detailed explanation of how they have responded to issues or the consequences of the scheme in relation to matters of concern raised by any public representations associated with the proposal.

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: We would welcome proposals designed to encourage inclusion of communities and other interested parties, such as the third sector, in the production of Statements of Common Ground. Third party non-statutory bodies or organisations rarely have any involvement in discussions or the opportunity to contribute to the production of Statements of Common ground. The ability to contribute to this process provides an opportunity to call to attention any unforeseen matters which could be either acceptable or contentious, and might otherwise only come to light or be recognised later in the determination process.				

Consultation reference: WG25023

Whilst RSPB Cymru understand the value of Statements of Common Ground in terms of their role in reducing the area of disagreement between the developer and individual objectors to a minimum, we are aware of incidents in Wales where a Statement of Common Ground has been used as a means of attempting to undermine the evidence of objectors who are not party to it. Welsh Government should instruct PINS to disregard such attempts, and to make it clear that Statements of Common Ground are bipartite agreements which have no bearing on third parties' objections.

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>We consider that the very short timetables for submission of evidence set out in the consultation document unfairly penalise individuals, communities and NGOs, especially as they have been coupled with threats of the awarding of costs for non-compliance in the NSIP experience. Whilst we understand the need to speed up the process, we consider that, in the context of the severity of possible adverse impacts and the timescale for the complete evolution of the project from early design to construction, lengthier timescales, provided that they are reasonable and proportionate, should be pursued. To do otherwise would be to bring the DNS system in Wales into disrepute.</p>				

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>In analysing the likely reasons for delays in the consideration of major projects under the former system the IAG identifies (amongst other issues) the late amendments and submission of evidence on the part of the developer. RSPB Cymru concurs with this, and it is backed up by evidence from NSIP projects in Wales. There have been examples of the submission of major and very</p>				

Consultation reference: WG25023

voluminous new evidence and amendments, even during the course of the Public Inquiry itself, and it sometimes difficult to avoid the suspicion that this is done to intimidate individuals, communities and small NGOs, and make it difficult or impossible for them to respond in a timely manner. RSPB Cymru therefore welcomes the commitment in the consultation document that there will be limited opportunity for late submission of evidence and amendments on the part of the developer.

We support the proposal for guidance to help determine whether an amendment to a scheme should be accepted. We are also pleased to see that, depending on the significance of the amendment, the Inspector will be able to call for a further consultation period if necessary. We recommend that the circumstances under which further consultation will be required should be set out in the guidance and a mechanism for objectors to request a further consultation period should be included.

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Consultation reference: WG25023

Comments:
The planning issues arising from such nationally-significant projects are likely to be complex and far-reaching. RSPB Cymru therefore sees no reason to impose an arbitrary limit on the amount of detail which can be submitted, especially bearing in mind that late amendments and evidence submission have frequently occurred in respect of the NSIP process in Wales thus far.

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
We agree with the minimum requirements for Local Impact Reports. We note that it is the Welsh Government’s intention to ‘seek to’ produce guidance on these. We believe this guidance will be very important, particularly in relation to the sorts of technical assessments that will be recognised as valid. For example, guidance on the methodology used to assess ecological or landscape impacts will be important.

One of the reasons that guidance will be important is that we find it difficult to see how the LPA, in completing their technical assessment of the impact of the proposal, will able to do so in a meaningful way without providing some objective and value judgement of its impacts on certain topics. Whilst some impacts may be clear e.g. local loss of habitat or flooding impacts, there are others, such as instances where the impacts of a proposal on the visual or landscape character of an area are a key factor, where a value judgement may have to be made. We believe an LPA would be failing to fulfil its role if they did not provide such a judgement.

We suggest this issue should be reviewed and greater clarity provided in future guidance or regulations as to precise scope for LPAs reporting on the issue of local impacts. Without this ability to respond in a comprehensive and open manner, the process of evaluation will be distorted. Though not specifically

Consultation reference: WG25023

mentioned in the consultation document, we also believe that LPAs should also be required to produce an LIR for any DNS which is included in the NDF and which is subsequently proposed for implementation.

In terms of ensuring transparency we strongly believe it is important that any LIR submitted by an LPA should be available for others to consider and provision made within the procedures for third party interests to have the opportunity to offer their objective response to PINS to any judgements made by the LPA in their LIR statement.

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Fees should also be recoverable by NRW, as involvement in such cases will incur costs.				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

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Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: This proposal would have the opposite effect to that desired, in that those LPAs with the least resources will be financially penalised, ensuring that they will not be able submit future LIRs within the timescale, and so on.				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Breadth of Consultation: Whilst the requirement to undertake pre-application consultation with the local community and statutory consultees is welcomed, it is suggested that this requirement to consult be extended to include all relevant stakeholders and interested parties and Local Planning Authorities (including those of neighbouring Local Planning Authorities so as to encourage effective public participation and enable an holistic approach to the determination of NSD, including consideration of potential cumulative and synergistic effects. Given that the great majority of projects being considered as NSD will also require, as a matter of law, Environmental Impact Assessment; it is suggested that provision for consultation for NSD is in accord with relevant European legislation in this matter. In accordance with the Aarhus Convention, paragraphs 16 and 17 of			

Consultation reference: WG25023

Directive 2011/92/EU (the codified version of the EIA Directive) state

‘Effective public participation in the taking of decisions enables the public to express, and the decision maker to take account of, opinions and concerns which may be relevant to those decisions. Participation, including participation by associations, organisations and groups, in particular non-governmental organisations promoting environmental protection, should accordingly be fostered’.

We would therefore suggest that to limit consultation on NSD applications to the local community and statutory consultees is inappropriate given that any associated environmental impact assessment process must be subject to wider consultation.

In addition, it should be noted that the revised and approved Environmental Impact Assessment Directive (2014/52/EU) contains many procedural changes in respect of project pre-application processes and EIA. This Directive must be transposed into UK legislation by May 2017 at the latest in order to avoid sanction by Europe. It would seem inappropriate at this juncture and given pressures on government finance, staff and capacities, to devise a policy and procedural framework for NSD which, by virtue to the interdependencies between potential NSD projects and EIA, will require overhaul and re-drafting within 18 months. We would therefore suggest that the proposed pre-application process as briefly described in 1.13 of this consultation document be reconsidered in the light of the requirements of Directive 2014/52/EU

Habitats Regulations Assessment:

Clarification would be welcomed on a couple of points, given the statement that ‘PINS will undertake all functions relating to the processing of an application for DNS with the final determination being reserved for Welsh Ministers.

- Given that the great majority of DNS project applications will be associated with additional ancillary and associated development, Environmental Impact Assessment processes and Habitats Regulations processes, clarification is required as to whether PINS will assume all relevant roles in respect to these associated applications and assessment processes e.g. perform the role as "competent authority" for HRA.
- Clarification is also required as to whether PINS and Welsh Ministers could undertake or should be seen to undertake ‘all functions relating to the processing of an application for DNS with the final determination being reserved for Welsh Ministers’, where Welsh Government themselves may be the project proponent, strongly associated with the proposed project e.g. through provision of finance or through policy intervention and/or have any vested interest in the proposed project.

Environmental Impact Assessment:

Consultation reference: WG25023

Although the need for potential DNS development to be subject to assessment processes identified in European law is not addressed in this document, it is noted that the proposed list of DNS development/thresholds as presented in this consultation, directly relate to some (but my no means all), types and scales of development presented in the Environmental Assessment Directive (2011/92/EU- the codified version and 2014/52/EU). The Annex A proposed list of types of development and their thresholds include a mixture of developments identified under Annex 1 (where EIA is mandatory) and Annex 2 (where EIA is discretionary subject to the potential significance of environmental effects), of the EIA Directives and clarification is required regarding the role of PINS and Welsh Ministers as being responsible for the EIA process and, in particular, determining the ‘screening’ of potential effects of proposed DNS developments identified under Annex 2 of the EIA Directive

Specified Consultees:

Paragraph 4.37 constitutes sweeping powers in that it enables Welsh Ministers to make draconian requirements of another organisation, in a manner in which may be onerous. This is particularly objectionable because the Welsh Government has made no additional resources available in order to enable the statutory consultees to comply with such draconian measures which these and other arrangements pursuant to the act imposed upon them. We remind the Welsh Government that the IAG Report found no quantifiable, verifiable evidence that a lack of timely responses on the part of the statutory advisers was a major constaining factor on a Wales-wide scale to the delivery of development.

Consulting Arrangements:

The RSPB would like to make the following points in relation to DNS consulting arrangements:-

The IAG Report and subsequent preparatory work in respect of the Planning (Wales) Bill indicates that the new DNS development type has been and continues to be closely modelled on the NSIP (UK) system. We can therefore benefit from reflecting upon lessons learnt from the evolution of NSIP, in order to add value to the DNS system and to avoid the pitfalls of the NSIP system.

Frontloading:

Both NSIP and DNS are strongly predicated on the concept of frontloading. RSPB Cymru concurs with much of the rational behind frontloading, viz the need to flush out genuine areas of disagreement as early as possible in the DNS elucidation process. However, problems, both conceptual and practical, have emerged in this respect.

Conceptually, we consider that frontloading, whilst laudable in its own right,

Consultation reference: WG25023

must not come at the expense of the rights of people, communities and organisations to object and maintain their objections throughout the process. There will be many instances where those referred to above consider that no amount of frontloading negotiation, design alterations, mitigation or compensation can remove or reduce to a satisfactory level adverse impacts, including those on the environment. We therefore advocate that arrangements concerning the consideration of DNSs should be such that this right is clearly enshrined and given due weight.

Practical Issues:

The Requirement to Submit a Full Statement of Case:

We consider that the requirement to submit a full statement of case is in contravention of the above principle, because for individuals, communities and most NGOs it is unfairly onerous. Most will not have the financial or human resources (or indeed the confidence) to submit a full statement of case at the outset. The window for this is small, and the developer may amend projects in any event. We therefore recommend that at this stage, a simple objection should be capable of being made, and that this should carry weight with the Inspector. The requirement to produce a full statement of case should come at a stage when the design and location of the project are substantially fixed.

“Ignore or Object”:

RSPB Cymru considers that short timescales have frustrated a key aim of the NSIP process, viz to deliver better developments through stakeholder involvement. Many people with a legitimate interest in an NSIP project do not become involved at the latter stages of project evolution because they are fearful of incurring costs, even though projects can change very considerably during these stages. Those who seek amendments to project design, rather than lodging and maintaining objections throughout the process are thus disempowered from doing so. This damages both the project itself and the reputation of the NSIP system in Wales

Transitional Arrangements:

There will need to be transitional arrangements once these new provisions come into force, for the determination of developments that fall within the DNS category that have already been proposed in principle or previously submitted for determination. We believe the regulations should prescribe when these new provisions will come into force and how any existing or proposed schemes will be dealt with. We believe that measures should also be taken to avoid ill-conceived schemes being submitted prematurely in order to circumvent any anticipated new requirements and procedures.

Consultation reference: WG25023

The Materiality of Statutorily-Designated Nature Conservation Sites:

We consider that clarity is required in terms of the processes by which the specification of DNSs in the NDF will take place. There have been incidences in Scotland where the act of specification has taken place without any regard to the environmental quality of the identified site, thereby embedding a DNS in the development plan in a damaging location. It is furthermore important to bear in mind that, unlike its Scottish equivalent, the NDF will be part of the development plan.

In order to guard against this, we consider that nationally and internationally important designated sites should be set out spatially in the NDF, and treated as absolute constraints, an approach which has worked very effectively for TAN 8, and has resulted in Wales being on course to attain its onshore wind targets, without impacting on such sites.

Whilst it may be argued that EIA and SEA have a role to play in respect of this, the Welsh Government is reminded that these assessments do not preclude damaging development, but throw light on the decision-making process. Following the TAN 8 approach would achieve the strategic aim of harmonising nationally-significant development with the imperative of protecting our best sites for nature conservation and reducing "downstream" conflicts, thus speeding up and simplifying the process of delivering such developments.

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201



WG25023-065

Developments of National Significance Consultation
Decisions Branch
Planning Directorate
Welsh Government
Cathays Park, Cardiff
CF10 3NQ

Sent by email to planconsultations-g@wales.gsi.gov.uk

12 August 2015

Consultation: Developments of National Significance

Tidal Lagoon Power welcomes this consultation associated with the implementation of the new Planning (Wales) Act. Tidal Lagoon Power is promoting major infrastructure in Wales and considers that steps to improve delivery of key projects in the national interest is vital.

We have previously commented in relation to the Planning (Wales) Bill on the current disadvantage to energy Nationally Significant Infrastructure Projects (NSIPs) in Wales because of the limitations to the scope of project elements that can be consented under the Planning Act 2008. Two recent examples are the Tidal Lagoon Swansea Bay project and Hirwaun Power Plant project decisions, where the Secretary of State excluded most 'associated development' from the consent. Although the reason for the limitation in scope is understood, it means that additional planning permissions are required from the Local Authority. As we have found with Tidal Lagoon Swansea Bay, this entails further cost and delay.

There is potential to improve this status quo through the proposals on Developments of National Significance (DNS). We recommend consideration of a new category of DNS to cover development associated with NSIPs, to alleviate the complexity of needing to seek the remaining consents separately. Although the future might see the realisation of a single integrated consent in Wales for nationally significant infrastructure projects, a significant improvement to the current situation would be the ability to consolidate the additional consents required. Such a category would need to be an option in order to be proportionate and flexible to circumstances. Introduction of such a category could also enable parallel tracking of a DNS application alongside a Development Consent Order (DCO) application. Although it would need to be considered further, there is potential to develop these proposals to enable an integrated examination process by the Planning Inspectorate of both DCO and DNS applications.



As there is a commitment to devolve further infrastructure consenting powers to the Welsh Government¹, it would also be worth considering now whether the DNS process is suitable and/or capable of adapting.

Please find attached our response to the consultation questions, which includes more detailed comment on the proposals.

We welcome the opportunity to discuss our views further should it assist you with progressing these positive planning reforms.

Please contact me at catrin.jones@tidallagoonpower.com or 07867129796 if you have any queries or wish to discuss further.

Yours sincerely

Catrin Jones

Tidal Lagoon Power

Encl.

¹ HM Government, *Powers For A Purpose: Towards A Lasting Devolution Settlement For Wales*, February 2015:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/408587/47683_CM9020_ENGLISH.pdf

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Catrin Jones	
Organisation	Tidal Lagoon Power	
Address	Pillar & Lucy House, Merchants Rd, The Docks, Gloucester, GL2 5RG	
E-mail address	catrin.jones@tidallagoonpower.com	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>A new category should be introduced for development connected with a nationally significant infrastructure project. Rather than have a threshold, this category should be optional.</p> <p>It is noted that offshore energy generating stations and harbour facilities are not included as DNS, despite these developments being considered nationally significant via the Nationally Significant Infrastructure Project (NSIP) regime. This needs to be considered further and addressed.</p>				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We support the ability for secondary consents to be submitted and examined alongside DNS.</p> <p>We refer you also to the response under Q1.</p> <p>There should be further consideration of options to enable inclusion of environmental and heritage consents (to the Annex B list). The Environment (Wales) Bill and Historic Environment (Wales) Bill seem to be an opportunity to develop options for the DNS process to be a 'one-stop' integrated development consent examined by a single body, as is possible in England through the NSIP process.</p>				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>There should be a presumption in favour of written representations.</p>				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>There should be further consideration of options to enable inclusion of environmental and heritage consents (to the Annex B list). The Environment (Wales) Bill and Historic Environment (Wales) Bill seem to be an opportunity to develop options for the DNS process to be a 'one-stop' integrated development consent examined by a single body, as is possible in England through the NSIP process.</p>				

Consultation reference: WG25023

In addition to secondary consents, it should be possible to examine relevant strategic planning instruments, where relevant, such as Local Development Orders (LDOs), changes to LDOs, and Enterprise Zones.

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: The proposals for notification do not appear to reflect the requirements should a DNS be EIA development. Screening for EIA is reflected in the notification proposals, however this could be followed by a requirement to consult on the scope of the Environmental Statement. Preparation of an Environmental Statement may take a few years. If notification is required to trigger consideration of screening opinion (and the steps that follow), then the notification of a DNS needs to be valid for at least 3 years. In general, there is a need for more flexibility. Depending on the nature and scale of a development, more time could be required to undertake pre-application consultation. Also, being responsive to consultation comments could cause a necessary delay to submission of an application. Services should be developed to support the process, particularly the period between notification and submission of a DNS application; such as the Consents Service Unit and Major Infrastructure and Environment Unit that were set up to support NSIPs in England. There should also be consideration of support needed by communities, (potentially provided by Planning Aid Wales), to engage with the process effectively.				

Consultation reference: WG25023

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Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Statements of common ground are a tool, therefore they should be capable of being used at any stage in the process where it assists. Therefore the use of statements of common ground should not be restricted.				

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

Comments:
We would support efforts to reinforce the importance of timely and substantive responses from statutory consultees in particular, and would support consideration of ways to enforce it, including through Higher Level Targets.

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
We agree that material amendments need to be discouraged, however the proposals for the amendment of DNS schemes is too restrictive. There is a need for flexibility, particularly for infrastructure proposals that need to go through a post consent design process, and other projects where operational consents can change the design of a scheme. A common sense approach should be adopted that enables flexibility without undermining the process. Criteria to help define material and non-material amendments (relating to DNS) could help progress considerations in relation to this matter.

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
The Planning Inspectorate should consult with the promoter of DNS during this period in order to manage expectations in relation to costs.

Consultation reference: WG25023

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The focus should be on encouraging meaningful representations that put forward a relevant and coherent case. A word limit might be necessary to support this; if evidence is necessary to support the case, it should be appended separately to the representation.</p> <p>We note the proposals in the consultation document relating to a 'substantive response'. We would support efforts to reinforce the importance of a substantive response from statutory consultees in particular, and support consideration of ways to enforce it, including through Higher Level Targets.</p>				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>No comment.</p>				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>No further comment.</p>				

Q16	Would you consider 5 weeks an appropriate timescale within which to	Yes	Yes (subject to	No
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Consultation reference: WG25023

	provide a local impact report? If not, please suggest appropriate timescales.		comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No further comment.				

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: More information is needed in relation to this matter in order to understand the likely cost of taking a DNS application through the process. Whilst the need to recover costs is understood, fees need to be managed to ensure that they are proportionate and do not deter development.				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We support the need for a Local Impact Report (LIR) to be a technical and factual document which does not express political views, provide recommendations or a balancing exercise; our support extends to the proposed approach of Council political views being submitted via representations. Therefore it is possible to resource the relevant LPA with a fixed fee in exchange for timely delivery of a valid LIR. Further guidance on this, including an example LIR would help this part of the DNS process, particularly as LIRs submitted as part of the NSIP process have become increasingly political, and tend to include a balancing exercise and resulting recommendations. There should be further consideration of how the LIR fee proposal would work if a DNS crossed LPA boundaries, especially if it is intended to encourage/incentivise collaboration and efficient use of resources.				

Consultation reference: WG25023

We support the proposals for voluntary LIRs to be submitted at the cost of the relevant LPA.

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
A requirement for a technical and factual LIR (that avoids political opinion and does not require a balancing exercise or recommendations), the advantage of a structured process, and funding from the fee structure, should all together enable all LIRs to be submitted within the set timescale. There must be a way to enforce this, therefore we support robust measures against LPAs that do not deliver.

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
No comment.

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Services should be developed to support the process; for example the Consents Service Unit and Major Infrastructure and Environment Unit that were set up to support NSIPs in England. There should also be consideration of support needed by communities (for example, provided by Planning Aid Wales), to engage with the process effectively.

The DNS process is aimed at strategic developments of importance, yet there is little explanation (beyond what was in the original 'Positive Planning'

Consultation reference: WG25023

consultation document) of the important interaction between the DNS process and the emerging National Development Framework, Strategic Development Plans, Local Development Plans, and Planning Policy Wales.

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Andrew Davies	
Organisation	Cowbridge(Ancient Borough) with Llanblethian Town Council	
Address	Town Hall 21 High Street COWBRIDGE CF71 7AD	
E-mail address	enquiries@cowbridge-tc.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: The Town Council considers that the 5 week period should be extended to 8 weeks to allow statutory consultees sufficient time to respond,				

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: The Town Council considers that the 10 working day period should be extended to 4 weeks.				

Consultation reference: WG25023

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
Comments:		<input type="checkbox"/>	<input type="checkbox"/>

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

Consultation reference: WG25023

Annex 1 - Consultation Response Form

Developments of National Significance

We are seeking your views on detailed proposals to establish a new system for the Welsh Ministers to process 'Developments of National Significance' ("DNS"). This is a new category of planning applications.

Please submit your comments by 12/08/2015.

If you have any queries on this consultation, please email: planconsultations-g@wales.gsi.gov.uk or telephone Lewis Thomas on 029 2082 3201.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Helen Edwards	
Organisation	Glandŵr Cymru - the Canal & River Trust in Wales	
Address	Canal & River Trust The Kiln Mather Road Newark Nottinghamshire NG24 1 FB	
E-mail address	helen.edwards@canalrivertrust.org.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input checked="" type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We would question whether or not the categories should also include water transfers from or to river basins in Wales where the infrastructure is within Wales.				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We welcome the proposal in 4.26 for a copy of the relevant plans to be sent to statutory consultees. We support electronic working. We agree with the comments in paragraph 4.21 that “it is essential that communities and consultees are aware of proposed development which affect them at the earliest possible stage”. We suggest that pre-formal pre-application consultation with Statutory Consultees should also be encouraged to ensure issues raised by statutory consultees can be considered at the earliest possible stage.				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Consultation reference: WG25023

Comments:
Please see the comments made below in respect of question 10 in terms of timescale.

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
We understand the intention that matters should be resolved prior to the formal submission of the DNS application however this may not always be the case. We note the reference at paragraph 5.27 in respect of developers and statutory consultees potentially entering into planning performance agreements but it is unclear at which stage of the DNS process this would take place. In any event we would encourage pre-formal pre-application engagement between statutory consultees and applicants. At paragraph 5.21 it is acknowledged that the content of the DNS may have changed at the application stage. Whilst the pre-application consultation report will assist with understanding the applicant’s response to issues raised at the pre-application stage, consultees will need to review the whole application again to assess the implications of any other changes made. The applicant will be fully aware of the amendments made following the formal pre-application stage. It would be helpful if a schedule of changes could be supplied with the application to guide those reviewing the application. Five weeks is a very short period of time to review the application for changes, assess the implications of these and prepare what in effect is the consultees statement of case on any existing or new unresolved matters, taking legal advice etc. as necessary. A statement of common ground may also need to be prepared. We consider that a period of 8 weeks would be more appropriate.

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Consultation reference: WG25023

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Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We have no objection to paper copies only being sent to PINs and the LPA. We do however ask how interested parties will be able to access the information relating to the application post decision should queries arise.				

Consultation reference: WG25023

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Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

Comments:

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>

Comments:

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

Planning Aid Wales consultation response

Developments of National Significance

To: planconsultations-g@wales.gsi.gov.uk

Date: 12th August 2015

1. About Planning Aid Wales

1.1 Planning Aid Wales is a not-for-profit charity which is core funded by Welsh Government. We work to help the communities of Wales to understand and engage effectively with the land use planning system.

1.2 Planning Aid Wales provides information, advice and training services to help local communities engage more effectively with planning. We also work with local planning authorities and Welsh Government to encourage more effective community involvement in the planning process.

1.3 When responding to consultations on emerging national planning policy, Planning Aid Wales aims to identify and remove potential barriers which might prevent effective or manageable public involvement in planning.

1.4 Our interest in these proposals is mostly in relation to the envisaged expectations on developers of 'Major Developments' to undertake pre-application consultation with local communities.

1.5 Our consultation response is made up of two elements:

- i) general comments on the proposals, as set out below in section 2 of this letter;
- ii) response to consultation questions 7, 8, 9, 10, 13, 16 and 18, as contained in the completed consultation form which is attached to this letter.

2. Consultation response – general comments

2.1 Planning Aid Wales is focussed on ways to improve inclusion in the planning system. We believe that there are three ways to do this:

- i) Improve awareness and ownership of the process by upskilling communities to improve the usefulness of their contributions.
- ii) Improve skills for consultation / engagement / participation in both the planning profession and for all those involved.
- iii) Review best practice and improve guidance.

2.2 The first two will be crucial in the rolling out of the new DNS process, as this will be an entirely new element of the Welsh planning system. The Interim Planning Advisory and Improvement Service report (February 2015) notes that there is already fear and suspicion, and an 'us and them' culture within parts of the planning system.

2.3 Given the potential implications of some of these nationally significant projects, named in the consultation document as being 'of the greatest significance to Wales because of their potential benefits and impacts', there is likely to be a good deal of controversy around them. In order to minimise this and to make this new system a successful addition to the planning regime, it must start from a point of inclusion.

2.4 Planning Aid Wales can help with this. While we acknowledge that the planning system *is* complex, our experience shows us that the relationships between the main elements of process and the roles of key players are easily explained and grasped, and that those who understand the general 'shape' of the system see its potential to benefit society.

2.5 There is nothing fundamentally restricting better public understanding of the planning system, or more participation by those who want it. Therefore the upskilling of residents, communities and local groups needs to be an important part of the work of planning departments in order to improve the usefulness of their contributions. Local planning authorities need to engage local communities, as well as town and community councils, on a continuous basis, so that they understand the planning policy context and can respond more constructively to planning applications in their area.

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Elwyn Thomas	
Organisation	Planning Aid Wales	
Address	First Floor, 174 Whitchurch Road Cardiff CF14 3NB	
E-mail address	elwyn@planningaidwales.org.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input checked="" type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Consultation reference: WG25023

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Planning Aid Wales welcomes the proposal for both the Planning Inspectorate and local planning authorities to offer pre-application information and advice. We also welcome the fact that developers will be required to undertake “more rigorous consultation requirements (than outlined in the Frontloading Consultation Paper)” and that these will be required to be “proportionate to the impact of the DNS.” (para 4.23)				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We note that the onus will be on local planning authorities to support the Planning Inspectorate in this, and that pre-application advertisement is to be in accordance with Circular 32/92 (i.e. including site and local press notices, letters to neighbours, ward councillors and any Town or Community Council). We also welcome the proposal to include Developments of National Significance in the planning register of the relevant local planning authority (para 6.6), but request that consideration is given to also requiring the inclusion of DNS which are subject to pre-application consultation, with a link to the relevant developer’s web-site.				

Consultation reference: WG25023

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
We note that Welsh Government proposes to produce guidance to address Statements of Common Ground (SoCG) (para 5.20). It could be helpful to include in this guidance suggested use of a mediator to help prepare a SoCG - where the parties have agreed to produce one.

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
While the proposed five week consultation period is more generous than the 21 days for planning applications, in view of the likely scale and complexity of Developments of National Significance we suggest six weeks as a more appropriate period.

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
No comment

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG25023

	Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: We welcome the proposal for a word limit for further representations, and indeed suggests that it might be reduced to 2,000 to encourage precision and reduced volume.				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
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Consultation reference: WG25023

		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: We consider that six weeks would be more realistic timescale for producing an Local Impact Report, particularly for Town and Community Councils who do not necessarily have the resources to produce one in a tighter timescale.				

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers’ (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: We considers that, in view of the work involved in dealing with pre-application advice, advertisement, enforcement and discharge of conditions for DNS as well as the LIR, local planning authorities should receive a fee based on the actual amount of work undertaken, in the same way as PINS and Welsh Government envisage a ‘full recovery of costs’ (p7.4). This would be necessary in order to				

Consultation reference: WG25023

ensure they receive “a fair contribution in terms of resources and support” (para 6.3). We also consider that any Town or Community Council which produces an LIR should receive a contribution to cover the cost involved.

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment			

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201

Consultation reference: WG25023

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name	Llinos Quelch	
Organisation	Ceredigion County Council	
Address	Cyngor Sir Ceredigion County Council Penmorfa Aberaeron, Ceredigion, SA46 0PA	
E-mail address	ldp@ceredigion.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Query whether any circumstances can be foreseen where road infrastructure improvements (significant trunk roads, new sections of road etc.) or associated works could be classified as a DNS?</p>				

Consultation reference: WG25023

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: It makes sense to consider all associated applications at the same time. Provides for transparency and consistency.				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: It is however unclear how and when the relevant LPAs would be able to provide views on secondary consents - would this be part of the LIR? LPA involvement is important in order to ensure that local matters are sufficiently considered and understood as part of the decision making process.				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Annex B definitions are broad and as a result we have reservations as to how wide the net could be cast with the result that more decisions are made centrally rather than locally as the Welsh Ministers have the powers to 'call in' an identified type of secondary consent if they consider it to be connected with an application for DNS. We note that paragraph 3.14 states that any changes to the list will be subject to further consultation.				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation reference: WG25023

It is unclear whether at the 'notification' stage that the LPA will receive copies of the submission documentation. It is essential that LPAs receive a copy of the material deposited with PINS as early as possible if LPAs are to be fully engaged from the start and in terms of resource planning. As a minimum the LPA should be notified that the application has been lodged and that it is awaiting validation. The LPA preference however would be to receive a copy of all documentation as soon as submitted (prior to validation), with the caveat of course that it is subject to validation. That way the LPA can start to plan for how it will address the application in due course (who's involved, deadlines etc.).

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				
<p>The proposals should be seen as a minimum and we would like to see developers undertake a greater level of consultation including attending meetings to explain the proposals rather than just issuing site notices, letters and press notices.</p> <p>As this is the developer's consultation, to avoid any confusion and to reduce extra resource requirements on Council's, the documents should be deposited in a location other than a County Council premises if at all possible.</p>				

Q8	Do you agree with our proposals for the advertisement of an application for DNS?	Yes	Yes (subject to	No
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Consultation reference: WG25023

	If not, why not?		comment)	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes provided LPAs are fully reimbursed for the erection of site notices - cost of materials and officer time/travel.				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Agree that they should not be compulsory.				

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The LPA acknowledge that it is important to set out a target for when responses from consultees must be received. However, this should be subject to review on a case by case basis. In accepting the 5 weeks we would be assuming that all the required/requested information will be available to the statutory consultee to enable a substantive response within the 5 week time period, otherwise we would suggest that this timeframe is unrealistic. Historically, delays have occurred when the applicant has not provided the necessary information to enable the statutory consultee to fully assess and comment on the application. Hopefully this will have been sorted at the validation stage - though if it involves highly specialised information/evidence then it might only be a statutory consultee that will be able to identify that what has been submitted is not sufficient. Additionally where the LPA needs to liaise with other consultees on specialist matters it is possible that more than 5 weeks would be needed. For example,				

Consultation reference: WG25023

the LPA may need detailed interpretation from NRW on matters that may be additional to those discussed at the pre-application stage. Without such information the LPA may not be in a position to provide a final view on that matter or provide all the necessary draft conditions.

The LPA therefore agree to having a target but that there should be an early appraisal on a case by case basis of whether that 5 week target can be achieved and an alternative target negotiated and agreed with PINS where necessary and justified.

The LPA also query when whether there is opportunity to comment on observations made by other consultees?

A real concern is that as a number of the consultees should be working together on responses (even though responses submitted separately) that 5 weeks does not allow sufficient time for that dialogue.

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Experience has shown that sometimes changes made to a scheme following comments from a statutory consultee/third party may make the development less acceptable to another consultee. This suggests that further consultation/engagement would be appropriate. There should be flexibility to aim for the best scheme rather than discouraging amendments.</p>				

Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Consultation reference: WG25023

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Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				
<p>Paper copies should be made available on request, as some third party organisations may not have access to the relevant software to easily read complex documents and drawings. It is appreciated that this could be one or two venues in the locality in order to keep costs at a realistic level. Therefore although deposit of one set in the Council Offices will assist with this, a further copy or copies at a location more local to the site will ensure better local engagement and transparency leading to a more inclusive process.</p>				

Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				
<p>Given the nature of DNS, it may be necessary to commission specialist reports to be able to adequately assess the local impact. Who's responsibility will this be? Should these be identified and requested at the pre-application stage? If they</p>				

Consultation reference: WG25023

are not available to the LPA undertaking the LIR should LPAs in the LIR flag up the need for more topic based assessments which PINS will then request or commission? If LPAs are to commission, 5 weeks is not a sufficient timeframe and the LPA should be suitably reimbursed. Additionally LPAs may need to buy in expert advice to scrutinise some of the technical reports - again there are time and cost implications here which need to be reflected in the process (see also response to Q10 and 16).

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: This answer is predicated on the basis that the LPA will be aware of the application prior to validation ie at pre-application stage to enable work on the LIR to commence. The LPA have concerns here regarding timescales especially where the LPA need to outsource scrutiny of technical documents or are dependant on dialogue with other statutory consultees (e.g. NRW) - these concerns have been noted under the LA response to question 10 above and equally apply as a response to this question (16).				

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
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Consultation reference: WG25023

		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The main concern here is that all LPA contributions in terms of fees are fixed. It is appreciated that not all costs can be foreseen and therefore hourly rates are better suited to parts of the process. This should however apply to LPA share of the fees and not just to PINS work. It is likely that costs associated with LIRs will vary between development types and locations. The number of officers required to be involved in LIRs will also vary - a fixed cost will not pick up on these variations.</p> <p>LPA's should be involved in determining the fixed fee if it is to remain as such. As this is a new requirement, the fee level should be subject to revision in case an adjustment to the fee is required.</p>				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>No, unless it is possible for the LPA to agree on a case by case basis an extension to the 5 weeks with PINS - there needs to be sufficient flexibility here to cope with unforeseen circumstances (sickness, complexity of application etc.).</p> <p>In paragraph 6.21 it states that the LPA will receive a portion of the application fee only if the submission is late or incomplete. What proportion would this be and how will this be set?</p> <p>We assume that the fees provided will cover all costs not just the preparation of the LIR, i.e. it will cover costs of adding to planning register, site notices etc. Also will LPAs charge the applicant direct for discharge of conditions etc. ?</p>				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Consultation reference: WG25023

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>In para 4.13 it states that PINS and LPAs will respond to pre-application requests. Will this be co-ordinated so officials from both organisations are both present at a pre-application meeting or if pre-app is dealt with just through paper correspondance there should be a requirement for both organisations to share copies of correspondence and any meeting notes if either PINS or LPA do not attend. Also the LPA questions how the view of other consultees will be shared and dialogue around those comments can be undertaken?</p> <p>Will LPAs charge the applicant directly for pre-application advice? Reference is made to the LPA fee being in line with pre-application fees set by WG, but that PINS advice will be on an hourly basis. Concern that the pre-application fee won't provide full cost recovery for the LPA. LPA favours hourly rate for LPA payment in relation to pre-application advice.</p> <p>It needs to be made clear to applicants that they would be expected to bear the costs associated with drafting a s106. This is in addition to any other DNS fees. This is in addition to any pre-application fee and is curenly set by individual LAs (legal department).</p> <p>Who issues the final decision notice, it would appaer that it is WG? If so who drafts the final s106? If it is the LPA then full cost recovery should be applicable for the LA.</p>			

I do not want my name/or address published with my response (please tick)

Consultation reference: WG25023

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201