



Llywodraeth Cymru
Welsh Government

Number: WG49599

Welsh Government Consultation Document

Infrastructure (Wales) Bill

Requirements for pre-application consultation and methods of engaging stakeholders and local communities

Date of issue: 13 May 2024

Responses by: 22 July 2024

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Overview

The Infrastructure (Wales) Bill introduces a modern and simplified regime for the consenting of significant infrastructure projects in Wales, both on land and at sea.

An important part of the consenting process is early engagement and consultation with stakeholders and local communities to ensure they have the opportunity to help shape and influence projects which may affect them.

To help achieve this, the Bill places a requirement on prospective applicants to undertake a period of pre-application consultation before an application for infrastructure consent can be submitted to the Welsh Ministers. However, the specific details and matters of any minimum requirements for pre-application consultation are reserved for subordinate legislation.

This consultation seeks the views of stakeholders and other persons likely to engage in the consenting process on how pre-application consultation should be undertaken.

How to respond

The closing date for responses is **22 July 2024** and you can respond in any of the following ways:

Email: Please complete the consultation response form and send it to: **infrastructureconsenting@gov.wales** (please include 'Infrastructure (Wales) Bill – Pre-application consultation requirements' in the subject line).

Post: Please complete the consultation response form and send it to:

Infrastructure (Wales) Bill – Pre-application consultation requirements
Planning Directorate
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information:

Email: infrastructureconsenting@gov.wales

Tel: Owain Williams on 0300 025 1715

This document is also available in Welsh: [hyperlink](#)

UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for Welsh Government consultations and for any personal data you provide as part of your response to the consultation.

Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. The lawful basis for processing information in this data collection exercise is our public task; that is, exercising our official authority to undertake the core role and functions of the Welsh Government. (Art 6(1)(e))

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. In the case of joint consultations this may also include other public authorities. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, 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. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation and that the Welsh Government may be under a legal obligation to disclose some information.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ
e-mail: dataprotectionofficer@gov.wales

The contact details for the Information
Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Tel: 0303 123 1113
Website: <https://ico.org.uk/>

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CONSULTATION PAPER

Infrastructure (Wales) Bill

Requirements for pre-application consultation and methods of engaging stakeholders and local communities

1. Introduction

- 1.1 The Infrastructure (Wales) Bill (“the Bill”) introduces a modern and simplified regime for the consenting of significant infrastructure projects in Wales, both on land and at sea. The need for this Bill has arisen as a result of the Wales Act 2017, which devolved further powers to Wales for the consenting of energy generating projects, overhead electric lines, ports and harbours and other infrastructure works.
- 1.2 As a consequence of the way these powers were devolved, Wales was placed into older and outdated consenting processes by the UK Government which are not fit for purpose. To address this, the Bill introduces a new unified consenting process.
- 1.3 An essential part of this process is to provide stakeholders and local communities meaningful and inclusive opportunities to influence developments which may affect them as early as possible, beginning before the submission of an application.
- 1.4 The Bill seeks to achieve this by introducing a requirement for prospective applicants to undertake a period of pre-application consultation before an application for infrastructure consent can be made to the Welsh Ministers.
- 1.5 The purpose of this consultation is to seek views, ideas and suggestions for how pre-application consultation requirements may be specified in the subordinate legislation.
- 1.6 This consultation will close on 22 July 2024. This consultation period is shorter than the standard Welsh Government consultation period. A shorter period is considered appropriate because the consultation is focused on a very specific part of the process that was recently subject to publicity through the Bill scrutiny. This paper is also the initial consultation on the topic, with a more in-depth consultation to follow based on these results. A period of 10 weeks is therefore considered suitable.

2. Background

- 2.1 During the scrutiny of the Bill by Senedd Cymru, members of the Climate Change, Environment and Infrastructure Committee and the Legislation, Justice and Constitution Committee discussed the lack of detail on the face of the Bill in relation to community engagement at the pre-application stage of the consenting process.

- 2.2 The policy justification for not being overly prescriptive in primary legislation is to enable pre-application requirements to be tailored effectively to different project categories. This is, particularly important given the wide range of projects which can be consented through the Bill both on land and in the Welsh marine area, where certain requirements may be appropriate for certain developments but not others.
- 2.3 Similarly, by specifying more detailed pre-application requirements in subordinate legislation, provides greater flexibility to amend and update requirements as new and improved techniques for consultation and engagement come forward, without the need for further primary legislation.

3. Current position on the Bill

- 3.1 On 16 April 2024, Senedd Cymru voted to pass the final text of the Bill at Stage 4. The Bill will now be submitted for Royal Assent.

4. Current Bill drafting

Primary legislation

- 4.1 Section 30 of the Bill requires a person who proposes to submit an application for infrastructure consent to carry out consultation on a proposed application prior to its submission to the Welsh Ministers.
- 4.2 Any consultation or publicity undertaken prior to a notification of a proposed application under section 29 of the Bill being accepted by the Welsh Ministers is not treated as consultation or publicity under section 30.
- 4.3 Section 30 of the Bill also provides the Welsh Ministers with the power to make regulations which will set out the detail on matters such as:
- Who must be consulted at the pre-application stage;
 - How pre-application consultations must be carried out;
 - How pre-application consultations must be publicised;
 - Timetable in connection with pre-application consultations; and
 - How to respond to pre-application consultations; and
 - Requiring prospective applicants to prepare and publish a report regarding their compliance with section 30 of the Bill.

Subordinate legislation

- 4.4 To accompany the Bill, a 'Statement of Policy Intent' has been published which sets out what matters are envisaged to be specified in subordinate legislation. Any matters proposed for subordinate legislation will be subject to further consultation. A copy of the Statement of Policy Intent can be found at the links below:

5. Issue

- 5.1 As discussed in paragraph 2.1, scrutiny of the Bill has raised questions regarding how stakeholders and local communities will be specifically consulted and engaged at the pre-application stage, given the majority of requirements prospective applicants will need to comply with are currently being reserved for subordinate legislation.
- 5.2 This is because our policy approach has been for any requirements specified in legislation for stakeholder and community involvement could apply to all developments captured by the Bill and therefore, it is important to strike the right balance between proportionality for different development types and requiring developers to undertake meaningful and inclusive consultation and engagement with local communities and other stakeholders.
- 5.3 To ensure local communities can engage in the infrastructure consenting process in an inclusive way and to allow any representations they make in relation to proposed developments to be taken into account, we are seeking suggestions and recommendations on how subordinate legislation can be strengthened to reflect this.
- 5.4 For example, the consultation model for Developments of National Significance currently specifies the following minimum pre-application consultation requirements:
- Applicants must publicise a proposed application by posting site displays, providing written notice to owners / occupiers of land and publishing notice of a proposed application in a newspaper circulating in the locality to which the application relates; and
 - Consult community consultees, specialist consultees and any other relevant person via written notice.
- 5.5 While this is an appropriate starting point, we are keen to explore how pre-application consultation can be strengthened as part of the infrastructure consenting process.

Questions

When considering your responses to the questions specified below, you may wish to consider matters such as:

- How effective are existing methods of engaging stakeholders and local communities in other consenting regimes and the wider planning system?
- Should the consultation model for Developments of National Significance be used and / or enhanced?
- Are there any new or emerging methods of consultation and engagement which may be appropriate for significant infrastructure projects in Wales?
- Should any requirements for pre-application consultation apply to all development consented through the Bill, or be tailored to specific types of projects?
- How would consultation requirements for development in the Welsh marine area differ from development on land in Wales?
- Should prospective applicants be required to discuss their pre-application consultation intentions with local planning authorities and / or Natural Resources Wales to gain information relating to local community groups, appropriate venues for events etc.?

Question 1:

What requirements should be set out in subordinate legislation to ensure enhanced community involvement in the consenting process, whilst ensuring proportionate consultation for all development types captured by the Bill?

Question 2:

Do you have any other comments to make, or evidence to put forward in relation to how community and stakeholder involvement in the infrastructure consenting process can be improved, or any suggestions for improvements?

Question 3:

We would like to know your views on the effects that pre-application consultation requirements as part of the proposed infrastructure consenting process would have on the Welsh language, specifically, on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects to you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 4:

Please also explain how you believe the proposed policy for pre-application consultation requirements as part of the Infrastructure (Wales) Bill could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.