Welsh Parliament
Climate Change, Environment, and Infrastructure Committee

Infrastructure (Wales) Bill: Stage 1 Report

November 2023

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Climate Change, Environment, and Infrastructure Committee
Welsh Parliament
Cardiff Bay
CF99 1SN

Tel: **0300 200 6565**
Email: **SeneddClimate@senedd.wales**
Twitter: **@SeneddClimate**

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About the Committee

The Committee was established on 23 June 2021. Its remit can be found at: **www.senedd.wales/SeneddClimate**

Current Committee membership:

Committee Chair: Llyr Gruffydd MS
Plaid Cymru

Janet Finch-Saunders MS
Welsh Conservatives

Huw Irranca-Davies MS
Welsh Labour

Delyth Jewell MS
Plaid Cymru

Jenny Rathbone MS
Welsh Labour

Joyce Watson MS
Welsh Labour

Heledd Fychan MS acted as temporary Committee Chair during this inquiry:

Heledd Fychan MS
Plaid Cymru

Contents

Recommendations

1. Introduction

1. On 12 June 2023, the Minister for Climate Change (the Minister), Julie James MS, introduced the Infrastructure (Wales) Bill (the Bill) to the Senedd. On 13 June 2023, the Minister made a statement on the Bill in Plenary.

2. The Business Committee referred the Bill to this Committee for Stage 1 scrutiny with a reporting deadline of 24 November 2023.

Terms of reference

3. The terms of reference were to consider:

- The general principles of the Bill and the need for legislation to deliver the stated policy intention.
- The Bill's provisions, including whether they are workable and will deliver the stated policy intention.
- The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).
- Whether there are any unintended consequences arising from the Bill.
- The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).

Committee's approach to scrutiny

4. The Committee undertook a public consultation between June and August 2023 and received 49 responses. 44 of these were from organisations and 5 from individuals.

5. We held oral evidence sessions with the Minister on 6 July and 18 October. Following the 18 October session, we wrote to the Minister to request a response on matters not reached during proceedings. The exchange in correspondence can be found on Senedd Cymru's website.

6. On 1 September, the Minister wrote to the Committee with further technical information to assist the Committee's scrutiny of the Bill.

7. We held a series of oral evidence sessions with external witnesses, including academics, representatives from local planning authorities, advisory and Welsh Government-sponsored bodies, community groups, infrastructure and planning associations, energy and transport sector developers, as well as environmental organisations. Details of these can be found at the end of this report.

External expert adviser

8. Given the technical nature of the Bill, the Committee decided to appoint an external expert adviser, Mark Southgate[1] to support its scrutiny of the Bill.

9. The Committee is grateful to Mark Southgate for his assistance, which has been invaluable in informing the Committee's deliberations and conclusions.

Scrutiny of the Bill by other Senedd committees

10. The Senedd's Finance Committee and Legislation, Justice and Constitution Committee took evidence from the Minister on their respective areas of interest. Their reports can be found on Senedd Cymru's website.

[1] Currently the Chief Executive Officer at Ministry of Building Innovation and Education, a charity which aims to train young people to innovate in the design and construction of houses. He has previously held several senior roles at the Planning Inspectorate including as Director for Major Casework responsible for Nationally Significant Infrastructure Projects (NSIPs). Prior to this, Mr. Southgate was the Head of Planning and Assessment at the Environment Agency and Head of Planning at the RSPB. He has held various Trustee/Board Member positions and was a judge at the 2023 Planning Awards.

2. General principles of the Bill

11. According to the accompanying Explanatory Memorandum, the Bill establishes a "unified consenting process for the development of infrastructure in Wales and in Welsh waters, replacing several statutory regimes". The new form of consent "will be known as an 'Infrastructure Consent' ("IC") and will be issued in relation to projects which are prescribed as a 'Significant Infrastructure Project'." The Infrastructure Consent is intended to contain the full range of authorisations required to progress a development.

12. The Minister told the Senedd in an oral statement in Plenary on 13 June that the Bill was developed with three key aims:

- To ensure a streamlined and unified process, enabling developers to access a one-stop shop whereby permissions, consents, licences, and other requirements currently issued under different consenting regimes can be obtained as one package.
- To offer a transparent, thorough, and consistent process, allowing communities to better understand and engage in decisions that affect them.
- To meet future challenges by being sufficiently flexible to capture new and developing technologies, as well as any further consenting powers that may be devolved to Wales.

Evidence from stakeholders

13. Most contributors supported the general principles of the Bill and agreed there is a need for a unified consenting process. The Royal Town Planning Institute (RTPI) highlighted it had:

> *"... long called for a regulatory framework to enable an effective infrastructure consenting regime ... on large infrastructure projects, providing structure and clarity...The recent rise in renewable energy applications on the Developments of National Significance (DNS) register is one indicator of the*

> *increasing volume of infrastructure applications coming down the line."*

14. Wales and West Utilities suggested the existing DNS (Developments of National Significance) process was "not fit for purpose" and puts Wales at a disadvantage compared to other parts of the UK. Isle of Anglesey County Council believed the current process was lengthy and inefficient, creating uncertainty for the consenting and delivery of projects.

15. The National Infrastructure Planning Association (NIPA) was optimistic that "the new regime has the potential to address many of the challenges experienced with the existing Welsh consenting regimes", but cautioned:

> *"At the outset, we would wish to emphasise that in order to realise the benefits of a unified consenting process, proper consideration must be given to addressing some of the systemic challenges of existing consenting processes, including the Planning (Wales) Act 2015 developments of national significance (DNS) and Planning Act 2008 development consent order regimes. Recent experience of both the DNS and DCO consenting regimes is that there is an increasing elongation of the validation, pre-examination, examination and determination stages, driven in part by inadequate and/or out-of-date national policy and a lack of resources and/or substantive engagement by consultees."*

Transitional arrangements

16. The need for clarity on the transition to the new regime was a recurring theme.

17. Kelvin MacDonald, University of Cambridge, highlighted the importance of having clear guidance on the new process in place before the implementation of the new regime. Steve Ball, Cardiff Council, expressed concerns about the absence of detailed information on the transition period. He concurred with Isle of Anglesey County Council's view that pre-application work already undertaken before the new regime's implementation should remain valid. Peter Morris, Powys County Council, echoed this and emphasised the need for a pragmatic

approach for such projects. James Good, NIPA, stressed the need for a clear cut-off point and criteria for determining how projects might transition between regimes.

18. Steve Brooks, National Infrastructure Commission for Wales, proposed the Welsh Government should provide a clear outline of the transition process. Eleri Davies, NIPA, agreed, particularly as the threshold for energy-related projects would be changed from 10 MW to 50 MW. She also sought clarity about which aspects of projects already in progress, such as scoping and consultation, would continue to be valid under the new framework.

19. Hannah Hickman, University of the West of England, emphasised the need for clarity on the transition to the new regime, especially given the resource constraints within local planning authorities. The Welsh Local Government Association (WLGA) expanded on this. They believed that a managed transition was vital and explained:

> *"some Local Authorities, as well as PEDW [Planning and Environment Decisions Wales], are already being put under significant pressure by Development of National Significance projects as applicants look to escalate projects and there is the real prospect that the number of DNS applications combined with SIP applications cannot be adequately supported by Local Authorities. Consideration should be given to validation requirements and potentially to a prioritisation system for potential SIP applications in order to ensure limited resources are used and managed in the most effective way."*

The inclusion of provisions on the face of the Bill

20. Many stakeholders questioned whether the Welsh Government had struck the correct balance between including provisions on the face of the Bill and in subordinate legislation. Kelvin MacDonald accepted the need for secondary legislation but pointed to 35 instances in the Bill where detailed provisions would be included in regulations. This felt excessive. Indeed, the level of detail reserved for subordinate legislation was described as "one of the Bill's key failings" by Bute Energy.

21. Lisa Phillips, NRW, recognised the benefits of the flexibility provided by using subordinate legislation, especially given the rapidly changing nature of this policy area. Dr Roisin Willmott, RTPI Cymru, and James Davies, Planning Aid Wales, both felt the balance was acceptable but stated that engagement with stakeholders on the secondary legislation arising from the Bill was crucial. Sara Morris, Pembrokeshire Coast National Park Authority, and Annie Smith, RSPB Cymru, echoed this.

22. Dr David Clubb, Chair of the National Infrastructure Commission for Wales, acknowledged that striking the right balance was difficult. He shared feedback from infrastructure stakeholders who felt the Bill needed more detail on some issues, such as timescales. Steve Brooks, NICW, added that such crucial elements should be explicitly set out in the Bill rather than included in subordinate legislation. James Good, NIPA, also recognised the need for flexibility but agreed that the Bill should be clear on the timetables for decision-making.

23. The Association of British Ports told the Committee:

> *"we understand that the Bill will be supported by secondary legislation, setting out much of the detail on pre-application consultation, optional SIP thresholds and fees. We would welcome clarity on timescales for the production and likely content of this secondary legislation, particularly on pre-application consultation requirements so that emerging infrastructure projects can properly plan ahead."*

Community consultation

24. Despite the Minister's emphasis on the centrality of community consultation to the Bill, Kelvin MacDonald stated that he did not find any Section that would explicitly make community involvement more accessible. He emphasised the difference between merely having the right to be involved in the process and creating an environment that fosters and promotes active community participation.

25. Kelvin MacDonald pointed to the Planning Act 2008, which contains provisions requiring applicants to outline their plans for community involvement.

Incorporating such statutory mechanisms into the current Bill could be beneficial.

26. Matthew Hindle, Wales & West Utilities, believed that the new regime would provide clarity for stakeholders, making it more straightforward for them to understand and engage. Geoff Ogden, Transport for Wales, agreed, but he believed the success of this aspect of the new regime would ultimately depend on the specifics set out in the subordinate legislation.

27. Dr David Clubb, NICW, was uncertain whether detailed provisions needed to be included on the face of the Bill. Steve Brooks, NICW, believed the Bill shouldn't be overly prescriptive about how engagement should occur but proposed that it could mandate developers to follow statutory guidance. He drew parallels to the Active Travel (Wales) Act 2013, suggesting that clear guidance could lead to more meaningful community engagement.

28. James Davies, Planning Aid Wales, suggested that relying solely on guidance might not be sufficient and that specific requirements should be included in secondary legislation. He noted the absence of metrics within the system to gauge the quality and reach of engagement.

29. Further detail on community consultation is included in the Committee's consideration of Part 3.

Resources

30. Many stakeholders expressed concern that current resource levels would not be sufficient to support the new process. RTPI Cymru said:

> *"... LPA departments are significantly underfunded, and research shows that planning services are suffering most severely of all local government services due to budget cuts... we believe that resourcing and expertise in the public sector, including Welsh Government, Planning and Environment Decisions Wales (PEDW), local planning authorities (LPAs) and local authorities more widely e.g. highways departments, NRW and other statutory consultees, is currently a key barrier to timely decision making and delivery of projects."*

31. Bute Energy believed that "the biggest barrier in terms of the implementation of the Bill and the objectives set out in the Explanatory Memorandum is the resourcing of public authorities and statutory consultees". They added that:

> *"We desperately need to increase the flow of people and resources to our planning authorities, PEDW and NRW. We are already seeing considerable and costly delays which will only worsen with the significant number of projects in the pipeline."*

32. EDF Energy suggested a central resource of experts accessible to LPAs, NRW and developers to address the lack of capacity. It is unrealistic for all LPAs to have the necessary in-house expertise and it suggested that a "pool of experts operating on a full cost recovery basis is potentially more cost-effective". This was echoed by Bute Energy, which said:

> *"We recognise that it is difficult to retain experienced employees, to continuously train new staff and to have enough personnel to process these applications across organisations. To address this issue and avoid delays in delivering the IC regime, we propose that a Welsh Government central resource, essentially a 'pool of experts' could be established to support the delivery of projects that would be available to WG, LPAs, PEDW, NRW and developers to utilise."*

33. Further detail on resources is included in the Committee's consideration of Part 8.

Impact on the environment

34. Annie Smith, RSPB Cymru, explained how mandatory requirements for biodiversity net gain were introduced in England' through the Environment Act 2021 and endorsed a similar approach for this Bill. Ross Evans, Campaign for the Protection of Rural Wales, believed the Bill should include detailed provisions setting out how biodiversity would be promoted. The Marine Conservation Society made similar points:

> *"We propose this Bill is used to adopt a nature positive development policy in Wales, underpinning the ambitions of COP15, the Biodiversity Deep Dive recommendations, the Section 6 duty under the Environment (Wales) Act and the Wellbeing and Future Generations Act."*

35. Wildlife Trusts Wales believed that "Speeding up and simplifying the consent regimes for infrastructure must not come at the expense of biodiversity protection, even if that infrastructure is for renewable energy". This was echoed by the Bat Conservation Trust and Pembrokeshire Coast National Park Authority.

36. The Marine Conservation Society hoped that the proposed consenting process would allow "for biodiversity issues to be considered more holistically and upfront, rather than at a later stage as part of separate planning applications". They added that they hoped

> *"this enables more of an ecosystem-based approach to be taken, which is a requirement of legislation such as the duty under Section 6 of the Environment (Wales) Act."*

Evidence from the Minister

Transitional arrangements

37. The Minister explained transitional arrangements would be included in regulations. She emphasised the need to "make sure that the switch date is really clear", adding that this was subject to ongoing discussions with various stakeholders. In reference to developments already in progress, an official accompanying the Minister added:

> *"We are talking to developers and local planning authorities about how they would want the transitional provisions to actually work in practice. I think, as a matter of principle, where things have started, if you like, the statutory part of the process, and an application has been submitted, I think probably the most appropriate route is for that application to carry on through that process. The question mark is about the ones that*

> *are in the pre-application stage at the moment, and which process do they follow."*

The inclusion of provisions on the face of the Bill

38. In response to a question about the proliferation of provisions for secondary legislation throughout the Bill, the Minister acknowledged it is "a difficult balance" to strike. She explained that:

> *"we need the certainty in the headline Bill of the process itself, and then we need any detail that we think is going to be subject to continuous change to be in the regulations."*

39. The Minister said she was exploring, with her officials, whether specific provisions could be included on the face of the Bill. She concluded by saying she would consider the Committee's proposals on this issue.

Resources

40. On the need for adequate levels of resourcing, the Minister started by explaining she expected that "the new regime will need a little bit more resourcing at the beginning, as people get used to it". She added that:

> *"once it's up and running, it won't take up any more resource than is now taken up, and if it works effectively, it might even take slightly less resource."*

41. To address this, the Welsh Government would be leading a "series of training and guidance" on the new regime.

42. In reference to the full recovery of costs for local planning authorities and statutory consultees, the Minister said:

> *"We're very committed to full cost recovery— I don't see any reason why the public purse should be subsidising developers of this scale. So, what we're currently doing is working with all of our various organisations to make sure that all of their costs can be captured in the cost recovery process".*

43. The Minister responded to the suggestion for a central advice unit by saying that she believed there would probably be "a future need for specialist advice". However, she favoured this being delivered by regional teams rather than a team in the Welsh Government.

Impact on the environment

44. Asked by the Committee whether she would consider including requirements for biodiversity net gain in the Bill, the Minister responded that this was a Bill focused on a process, and she did not think it was "the appropriate vehicle for that".

Dialogue with the UK Government

45. On the issue of crown consent, an official accompanying the Minister said that discussions were ongoing at an official level. Still, he expected to receive a response in sufficient time to table amendments at Stage 2, should the Bill reach that stage.

46. The Committee asked the Minister about the transfer of legislative competence to the Senedd for the consenting of offshore energy generating stations between the edge of the Welsh zone and the territorial sea. The Minister confirmed no progress had been made.

Our view

The evidence received from stakeholders indicated widespread support for the objectives of the Bill. Most of the evidence relating directly to the Bill was focused on removing potential ambiguity and other steps that stakeholders consider necessary to help ensure the successful implementation of the new regime.

Before considering these matters further, we must address what one stakeholder called one of the Bill's key failings.

While we acknowledge the need for flexibility in the Bill, we believe it is more important to be transparent and provide clarity for those affected by its provisions. We do not think the right balance has been struck between the provisions included on the face of the Bill and those reserved for secondary

legislation. The Bill contains 59 powers for the Welsh Ministers to make regulations.

One of the objectives of the Bill is to provide clarity. We do not believe the Bill, as drafted, achieves this. The framework nature of the Bill means that details critical to the operation of the new regime will be included in future regulations. This has severely impacted the Committee's ability to scrutinise how effective the Bil will be in delivering its policy intentions, particularly around the ambitions for the creation of a “one-stop shop”.

It is unfortunate that a Bill aimed at improving consultation should be drafted in such a way as to hinder meaningful engagement on its provisions and what they will mean in practice. We believe this situation could have been mitigated by the publication of draft secondary legislation alongside the Bill. The Statement of Policy Intent sets out the Welsh Government’s intention in relation to the provisions in the Bill. But it lacks detail, often acknowledges that the details will change, and the document’s status is unclear. It should be noted that the document was not published alongside the Bill but almost four months later.

We believe the Welsh Government should set out the timescale for making subordinate legislation arising from the Bill. Because of the lack of detailed provisions in the Bill, we expect the Welsh Government to consult stakeholders before making subordinate legislation. This is particularly important for subordinate legislation relating to timescales associated with the new regime and the pre-application process. The Minister should ensure there is sufficient time available for Senedd committees to consider the ten pieces of subordinate legislation in the Bill that will follow the affirmative procedure.

Given that the detailed arrangements for the new regime will be delivered through secondary legislation, we believe it is important that the public, public bodies, and developers are able to access up-to-date digital versions of all relevant documents and legislation in one place on the internet. This will mitigate the risks arising from the Welsh Government’s chosen approach.

Transitional arrangements

Paragraph 7.2 of the Explanatory Memorandum states that the new regime is expected to be fully operational by mid-2025.

We heard strong calls from stakeholders for clarity on how the transitional arrangements to the new regime will work in practice. We note that transitional arrangements are the subject of ongoing discussions with stakeholders and local authorities.

We believe that transparency around this process is crucial, and the Minister should publish an indicative timetable setting out when the transitional arrangements will be determined.

Community consultation

The Minister has said that improving community engagement is central to the Bill. The pre-application process in Part 3, specifically section 30, is the mechanism in the Bill for that enhanced engagement.

It is difficult to determine whether and how this section will lead to improvements because so much of the detail is left to secondary legislation. Section 30(2) provides the Welsh Ministers with discretionary powers to determine who should be consulted and how, the timetable for consultation, and reporting requirements. As these powers are discretionary in nature they also contribute to a lack of clarity about the overall procedure going forward. The Statement of Policy Intent provides some information on the Welsh Government's intentions, but crucial details are still lacking.

We recognise that community consultation presents challenges that are not easy to overcome. Nevertheless, we are disappointed that the Bill contains no detailed provisions that will directly enhance community consultation. We set out further details in the relevant section of the Report.

Resources

We welcome the Minister's commitment to full cost recovery, which we believe will be fundamental to the success of the new regime.

We note that many organisations cannot currently engage in planning regimes as effectively as they would like due to resource constraints This must be considered in ensuring that the new regime operates effectively. If the new regime works as well as the Minister predicts, it is likely that demands on consultees and local planning authorities will increase. For example, if there is an expectation that engagement will increase, this may result in associated increases in costs to cover an increase in the input required from these organisations.

We note that access to specialist advice and skills may not be economical if held in individual local authorities given the infrequent nature of Significant Infrastructure Project applications in particular local authority areas. For the regime to be effective, the Welsh Government and public bodies must work together to find the most effective means of delivering the specialist advice necessary across different geographical locations.

The Minister should support local authorities to identify effective mechanisms that will enable them to share learning and good practice from working in the new regime.

Impact on the environment

We note the Minister's comments that this Bill is not an appropriate vehicle for targets aimed at biodiversity net gain. We look forward to scrutinising the forthcoming Bill on nature recovery in due course.

Recommendation 1. The Committee recommends that the Senedd supports the general principles of the Bill.

Recommendation 2. The Welsh Government should publish a detailed timetable for the preparation, publication, and, where appropriate, consultation, of the subordinate legislation arising from the Bill.

Recommendation 3. The Welsh Government should publish in draft key pieces of subordinate legislation and consult stakeholders before final versions are taken forward.

Recommendation 4. The Minister should ensure there is sufficient time available for Senedd committees to consider the key pieces of subordinate legislation in the Bill that will follow the affirmative procedure.

Recommendation 5. The Minister should ensure that digital versions of the secondary legislation arising from the Bill, and associated guidance and documents, are available in one place on the internet that is easily accessible to the public, public bodies and developers.

Recommendation 6. The Minister should publish an indicative timetable setting out when the transitional arrangements to the new regime will be determined.

Recommendation 7. The Welsh Government and public bodies must work together to find the most effective means of delivering the specialist advice necessary across different geographical locations. The Minister should report back to this Committee on progress within the next 6 months.

3. Parts 1 and 2 - Significant Infrastructure Projects and Requirement For Infrastructure Consent

47. Part 1 defines the meaning of Significant Infrastructure Projects and the types of projects that will be subject to the new consenting process.

48. Part 2 sets out the requirements for infrastructure consent for a development which is, or forms part of, a significant infrastructure project.

Part 1 - Evidence from stakeholders

Section 1 – Meaning of "significant infrastructure projects"

49. Section 1 explains the meaning of "significant infrastructure projects" for the purposes of the Bill. A development is a "Significant Infrastructure Project" ("SIP") if it falls within one of three categories:

- If it falls under one of the definitions specified in Part 1 of the Bill;
- If it is specified in a direction made by the Welsh Ministers under section 22; or
- If it is specified as a SIP in the National Development Framework.

50. Hannah Hickman discussed the difficulty of defining "significant" infrastructure projects. She highlighted the various criteria, such as scale of operation or capacity, which may be apparent for certain fields but could prove unclear in others. She was concerned with the rationale behind the categories and the consistency in approach, and called for clear reasons for including or excluding specific types of development. Kelvin MacDonald agreed and expressed concerns over ambiguities surrounding the category definitions. He emphasised the need for precision and stressed the importance of clarity for developers.

51. NRW believed the provisions were generally sufficiently clear but raised concerns about specific fields. While the marine area was mentioned in specific

fields, such as Electricity Infrastructure, it was omitted in others. NRW suggested that the marine area should be referenced in all relevant fields.

52. National Grid suggested the Bill should be amended to allow certain developments to opt into the new consenting process. This was supported by RWE Renewables and NIPA, with the latter suggesting:

> *"the ability of developers to apply for specific projects to be brought into the SIP regime is essential for the new consenting regime to function as a "one stop shop" where most needed. Although some projects may fall within the scope of the Town and Country Planning Act, where multiple consents are required, developers should be able to apply and bring them to the SIP regime."*

Section 2 – 6 – Energy

53. Sections 2 to 5 provide the circumstances in which the following infrastructure will be a SIP:

- Electricity infrastructure
- Liquified natural gas facilities
- Gas reception facilities
- Hydraulic fracturing for oil and gas and coal gasification.

54. Section 6 provides that the creation of an open cast coal mine or the winning and working of coal from an open-cast coal mine in Wales is a SIP.

55. RWE Renewables highlighted the Bill's shortcomings in addressing upcoming infrastructure necessary for the energy transition. Examples included hydrogen distribution pipework, CO2-related facilities, shared heat networks, and water supplies specific to green hydrogen electrolysis. The company drew attention to the Bill's omission of standalone hydrogen production and related facilities. Bute Energy concurred, saying:

> *"we note there is an absence of emerging and future technologies such as hydrogen infrastructure and related*

> *activities within the definition of SIPs. Whilst there are provisions under Section 17 that grant powers to Welsh Ministers to add, vary or remove types of SIPs, it is disappointing that this is not accounted for in the current document. We would welcome this addition given the Welsh Government's push to develop a hydrogen strategy as part of the pathway for net zero."*

56. This was supported by Ynni Glân and Statkraft.

57. Wales and West Utilities (WWU) expressed concerns about the omission of gas pipelines or gaseous storage facilities, even though the Bill does address liquefied natural gas facilities and gas reception facilities. As a result, potential key projects such as new hydrogen pipelines would not be covered under the Bill. WWU found this exclusion particularly noteworthy since hydrogen is expected to be a major player in achieving carbon budgets and net-zero targets.

58. In reference to solar development, SolarEnergyUK said:

> *"For solar development, the 50MW threshold should be its inverter rating (AC) and not its DC rating (which for a 50MW AC project would be closer to 70MW). This position has been accepted by the Secretary of State in England. It would be helpful for this to be set out in the Bill to avoid confusion on this threshold in Wales."*

59. Newport City Council said it was necessary to explicitly exclude energy storage from the Electricity infrastructure definition in Section 2. The Council raised concerns about the omission of pipelines, which had been encompassed in the 2008 Planning Act, from the current legislation.

60. Llanarthne and Area Community Pylon Group expressed concern about the exclusion of certain types of electrical lines, both above and below ground, from the Bill's definitions. Specifically, there was uncertainty surrounding why certain electrical line voltages were included or excluded and how this might affect the overall objective of simplifying the application process. The status of underground electric lines raised particular concerns; these were notably absent from the Bill.

Sections 12 – 13 – Water

61. Dŵr Cymru Welsh Water noted that the threshold for a water resources development to be classified as a SIP is 100 million cubic meters per year. They believed this was "extremely large given that as a company, DCWW only supply around 350 million cubic meters per year." They explained that:

> *"It is therefore highly unlikely that any water resources development DCWW undertakes would be classified as a SIP, nor benefit from the improved, unified and streamlined permitting process in this respect."*

62. Dŵr Cymru Welsh Water said that:

> *"It is also concerning to see that major infrastructure projects for pipeline replacement etc. are not included, but instead, may come under the latter capacity of transfer of wastewater. Some of DCWW's major pipeline projects such as replacing the SECS main in Southeast Wales could be classified as a SIP."*

Section 17 – Power to amend

63. Section 17 enables the Welsh Ministers to amend Part 1 by regulations to add, vary or remove a type of project that will be considered a SIP. Types of projects can only be added or changed if they relate to the fields of energy, flood prevention, minerals, transport, water, waste water and waste.

64. The Association for Consultancy and Engineering (ACE Wales) supported the inclusion of these provisions and noted that the Bill's criteria must be flexible to respond to the fast-paced evolution of technology. However, NFU Cymru pointed out that, unlike sections 2 to 16, certain fields specified in section 17 (flood prevention and minerals) did not include detailed criteria. They felt there should be comprehensive consultation with stakeholders before utilising the Section 17 power.

Section 18 – Interpretation

Cross-border projects

65. Lisa Phillips, NRW, highlighted the potential complexity of cross-border projects. She believed that to navigate these complexities successfully, all involved parties should be well-informed about the requirements of different regimes. She also emphasised the need for clear guidance and effective communication. Similarly, Bute Energy told the Committee:

> *"further clarity and detail will be crucial for onshore, offshore and grid projects on how they should be consented and how provisions interface with the PA2008."*

66. Liz Dunn, RenewableUK Cymru, also highlighted the challenges for future cross-border projects, where concurrent applications for the Welsh and English consent processes might be necessary.

67. In reference to offshore wind projects in the Celtic Sea that straddle English and Welsh waters, RenewableUK Cymru said:

> *"Certainty will be needed in terms of the consenting route as soon as possible for those proposed project development plans in anticipation of leasing rounds. Whilst it's understood that project phases may be progressed to address this, should a project decide to proceed as a whole (greater than 350MW), it is not currently clear if the larger scale project will be required to apply for an IC (for Welsh marine licensing purposes) as well as a DCO."*

Part 2 – Evidence from stakeholders

Section 22 – Directions specifying development as a significant infrastructure project

68. Section 22 provides that the Welsh Ministers may give a direction specifying that a specific development is a SIP if the development, when completed, is wholly or partly in Wales or the Welsh marine area and the development is or

forms part of a project that the Welsh Ministers consider to be of national significance, and is of a description specified in regulations.

69. WWU pointed to the effective use of an equivalent provision in the Planning Act 2008. SP Energy Networks was also in favour of the section 22 provisions but emphasised the need for clear guidance on the criteria that would be used to decide on its use.

Section 24 – Directions specifying that development is not a significant infrastructure project

70. Section 24 provides that the Welsh Ministers may give a direction specifying that a development that would otherwise be a SIP should not be classed as one for the purpose of this Bill. A direction made under section 24 may only be given if the development is partly in Wales or the Welsh marine area.

71. Llanarthne and Area Community Pylon Group cautioned that the powers of direction in section 22 and 24 could be misused for political advantage, allowing decisions with negative political implications to be sidestepped. They suggested that clear criteria should be established about the circumstances in which the powers could be used.

72. Associated British Ports welcomed the provisions in section 24. However, they believed "this power should not be able to be used without formal consultation which we would suggest should be a statutory requirement."

Section 26

73. Section 26 provides power for the Welsh Ministers to make regulations about certain procedural matters in connection with directions under section 22, 23 and 24. This includes time limits for making decisions following requests for directions.

74. RenewableUKCymru commented on the lack of a timeframe in the provisions for deciding on a request for a direction, and said:

> *"We suggest that this should be aligned with the Planning Act 2008 timescale of 28 days as a maximum (it would preferably be shorter to ensure the overall determination process of 52 weeks*

> *is achievable due to the discrepancy between the aggregate duration of the NSIP process compared with the 52-week ambition of the Bill). There are critical elements of the direction process which needs to run efficiently so as not to delay projects that are already in progress."*

75. This proposal was supported by SolarEnergyUK and RWE Renewables.

Evidence from the Minister

76. The Committee asked the Minister about the evidence provided by stakeholders that some of the language used to describe the SIP categories could be open to interpretation. An official accompanying the Minister said:

> *"there may be things that fall below the threshold, are novel, and they are things that we could direct as significant infrastructure projects. It may be the location, it may be the fact it's novel, and they would then follow this process… New technologies will come along in the future, and that's why we have the ability to add categories using secondary legislation in the future as well. We think we've captured most things. If there are things that people feel we should include, we need to hear them."*

77. In response to a question about the omission of the production and transport of hydrogen from the Energy field, the Minister explained that the production or transport of hydrogen would likely occur as part of a development that would fall within one of the other fields in Part 1:

> *"if somebody who's trying to produce hydrogen, or a local authority has somebody trying to produce hydrogen, they're going to produce hydrogen, and there are only two ways of doing that currently; they're going to attach it to a fossil fuel generator of some sort or they're going to attach it to a renewable energy generator of some sort. Both of those would be captured."*

Cross-border projects

78. The Minister was asked whether she was content that the Bill is sufficiently clear on the consenting of cross-border projects and responded:

> *"Yes, we'll have to discuss this with the UK Government and English counterparts all the time. We have the ability in the Bill to switch our process off if we think it's better to be done the other side. So, we think that's the best way for it to be determined".*

Our view

We note stakeholders' comments about the need for greater clarity of the provisions in sections 1 to 16.

The official accompanying the Minister told us that most types of projects would be classed as significant infrastructure projects under the provisions in sections 1 to 16. However, this was not the view of most developers who contributed to the Committee's work. Further, we note the Minister's specific comments on hydrogen production and transport.

There is a significant difference of opinion on what will be encapsulated by the provisions of sections 1 to 16, and there is considerable unease amongst developers about several omissions. We believe further engagement is necessary between the Welsh Government and stakeholders to address these issues before the Bill completes its passage through the Senedd.

Developers supported the possibility of being able to "opt-in" to the SIP regime for specific projects. This is not a matter the Committee has been able to explore fully. We would be grateful if the Minister would clarify her position on this and whether she considers that the power in section 22 of the Bill could be used to facilitate an opt-in procedure.

The Committee understands the need to respond to new technologies and developments and accepts that the section 17 powers to amend the types of projects in sections 1 to 16 are necessary. We note, however, the comments about flood prevention and minerals and believe the Minister should clarify

why these fields do not have their associated criteria included on the face of the Bill.

We agree with stakeholders that there should be clear guidance on the circumstances when Welsh Ministers can use the section 22 or 24 powers of direction. We believe it would be appropriate to amend section 25 to mandate the publication of such guidance.

We note the calls for certainty around the time limits for the Welsh Ministers to decide on a request for a direction under sections 22 to 24. Currently, time limits will be a matter for the Welsh Ministers to determine in regulations. Again, it is a concern that so much of the detail of the new regime will be included in regulations. In contrast, the Planning Act 2008 specifies time limits, providing clarity and certainty for developers. We see no reason why the Welsh Government cannot take the same approach for this Bill. We believe the Minister should bring forward amendments to that effect.

Recommendation 8. The Welsh Government should engage with stakeholders on the criteria in Part 1 to resolve concerns before the Bill completes its passage through the Senedd.

Recommendation 9. The Minister should clarify her position on the inclusion of an “opt-in” provision to the SIP regime and explain whether she considers that the power in section 22 of the Bill could be used to facilitate such a procedure.

Recommendation 10. The Minister should clarify why the fields in section 17 do not have their associated criteria included on the face of the Bill.

Recommendation 11. The Minister should bring forward amendments to section 25 to mandate the publication of guidance in relation to the circumstances when Welsh Ministers can use the section 22 or 24 powers of direction.

Recommendation 12. The Minister should bring forward amendments to section 25 to specify a time limit within which the Minister must respond to a qualifying request from a developer for a direction under section 22 or 24.

4. Part 3 - Applying for Infrastructure Consent

79. Part 3 sets out the pre-application procedure, how an application for infrastructure consent is to be made, and requirements for publicity and notification of an application.

Evidence from stakeholders

Sections 27 and 28 - Assistance for applicants

80. Section 27 gives the Welsh Ministers the power to make regulations regarding the provision of pre-application services by the Welsh Ministers or local planning authorities. Pre-application services are intended to assist prospective applicants prior to the submission of an application for infrastructure consent.

81. Section 28 enables the Welsh Ministers to authorise an applicant for infrastructure consent to serve a notice on the persons specified in subsection (4) to obtain certain information.

82. ACE Wales indicated that while the pre-application process might entail more costs and time, the long-term benefits, such as streamlining later stages, could be significant. They emphasised the importance of ensuring that bodies providing such advice possess the required expertise, resources, and decision-making capacity.

83. Llanarthne and Area Community Pylon Group was concerned about the discretion given to Welsh Ministers in section 28 to authorise the collection of land ownership details. They emphasised the need for clear guidelines on the information that could be requested.

84. NFU Cymru argued that details surrounding the format, content of notices, and timelines for responses should be clearly set out in the Bill. For notices under section 28(5), NFU Cymru believed that a minimum of 21 days should be allowed for compliance, with provisions for extensions if necessary. For section 28(8), which refers to a fine upon conviction of an offence, they expected the Bill to specify a maximum limit for the fine, possibly equating it to level 5 on the standard scale.

Sections 29 and 30 - Pre-application procedure

85. Section 29 requires any person who proposes to make an application for an infrastructure consent order to first notify the Welsh Ministers, each local planning authority for the area in which the proposed development is located, and any other persons prescribed in regulations. A notification under this section must comply with any requirements specified in regulations.

86. Section 30 requires a person who proposes to submit an application for infrastructure consent to carry out consultation on a proposed application prior to its submission. This section also provides the Welsh Ministers with a power to make regulations for, or in connection with, consultations.

87. RWE Renewables emphasised the need for the requirements in the regulations to be proportionate to avoid overburdening applicants. It called for clarity on consultation standards to ensure that the pre-application process remains both thorough and fair. Given the importance of the regulations arising from this part of the Bill, RWE Renewables emphasised the need for consultation on the draft subordinate legislation. Solar Energy UK referred to the lack of detail on the face of the Bill "unhelpful" and called for this to be addressed.

88. In reference to section 29, NFU Cymru suggested that details reserved for regulations should have been included on the face of the Bill. NFU Cymru believed the response time for pre-application consultations in section 30(2)(d) should be at least 28 days. Moreover, for section 30(3), they believed it was essential to include a stipulation for publicity in both local and national newspapers.

89. Ross Evans, Campaign for the Protection of Rural Wales, voiced concerns about the inadequacies of the existing consenting regime. He did not find the new regime promising in its current form. While he acknowledged the new regime might simplify processes, he did not believe the Bill would alter the role of communities in the process.

Sections 31 to 33 – Process for applying for infrastructure consent

90. Section 31 requires an application for infrastructure consent to be made to the Welsh Ministers and provides that infrastructure consent may only be given

if an application is made for it. section 32 requires the Welsh Ministers, on receiving an application for infrastructure consent, to decide whether or not to accept an application as valid. Section 33 requires the Welsh Ministers to notify certain parties where they have accepted an application as valid.

91. In reference to section 32, Bute Energy said:

> *"Section 32(1) notes that Welsh Ministers have power to determine whether or not to accept applications and must give notice of their decision. However, there is no information on what criteria will be applied or the timescales involved."*

92. NFU Cymru and Lighthouse bp believed that Welsh Ministers should decide on the validity of an application within a 28-day period.

93. Bute Energy said that section 33(7):

> *"allows Welsh Ministers to extend the deadline for receiving representations in response to an application for an IC and also allows this to occur more than once. Whilst we acknowledge there is a need for this to take place under certain circumstances, we believe there should be sufficient justification that should accompany these extensions if required. Extensions should be the exception rather than the norm. Again, allowing such a broad mechanism for extending consultation periods compromises the overall objective for timeliness and efficiency of the Bill."*

Section 36 – Marine impact reports

94. Section 36 requires the NRW to submit to the Welsh Ministers a marine impact report where it is notified of an application for proposed development in the Welsh marine area, if the draft order submitted in an application for infrastructure consent contains provision for a deemed marine licence.

95. NRW said they were in discussions with the Welsh Government about the implications of these provisions. The Association of British Ports said this requirement:

> *"appears out of step with equivalent regimes elsewhere in the UK. If it is to be included it is essential that this requirement is undertaken such as to ensure no additional time constraints to the process are incurred. Clearly NRW are an important consultee and we would suggest they are included in the consultation regulations without a legislative requirement for them to respond."*

Evidence from the Minister

Community consultation

96. The Minister reiterated her view that consultation would improve because the new regime would be more streamlined. She said that provisions in the Bill meant there would be "two opportunities, and in reality, actually, probably more than two opportunities" for public consultation on a development. She explained that she expected developers to undertake a "pre pre-application process", which would also involve public consultation.

97. In response to a question about how the Bill might be strengthened to increase public engagement, the Minister said she would consider any recommendations made by the Committee in this regard.

98. The Minister was asked whether provisions equivalent to sections 47 to 49 of the Planning Act 2008 - that place a duty on developers to publicise the proposals and to consult – should be included in the Bill. She said:

> *"we're a bit wary about this, if we're honest, because the requirements in the 2008 Act are developed alongside the local planning authority, so you're putting an additional burden on them to produce something. They're only have regard provisions, so they're not very strong…And there's not a minimum standard for that. So, I think we're very hopeful that we can put into our secondary regulations a set of minimum standards and requirements that are better, I would suggest, than that, and that we'll have a rather better set of certain things that the developer has to run through in order to get there."*

Our view

We note that the Minister has said that she hopes the Welsh Government will bring in, through regulations, stronger and better standards for community engagement than are provided for in the Planning Act 2008. But it is clear from her comments that no detailed proposals have been prepared as yet. This is the fundamental problem with a Bill such as this - we are being asked to have *faith* that a better system will be delivered via the regulations.

The Minister has provided no explanation why provisions on consultation and publicity cannot, in some form, be included on the face of the Bill. We believe this is a significant missed opportunity. We believe the Minister should amend the Bill to provide more clarity in relation to consultation and publicity processes. The Minister should consider as a starting point, the provisions of the Planning Act 2008.

The Minister should, in her response to this Report, set out the timelines for making regulations under section 30. Given the centrality of public consultation to the new regime, the Minister should publish and consult on the draft regulations.

Further, we note the comments from stakeholders that, although there are examples of good practice from developers on community consultation, this is far from consistent. The Minister should publish guidance for stakeholders on best practice and expected standards for community consultation.

Stakeholders raised several other matters in evidence concerning the application procedure. Unfortunately, these matters are reserved for subordinate legislation rather than including the detail on the face of the Bill. They include –

Section 28 – obtaining information about interests in land; and

Section 29 – notice of proposed application.

Section 32 – deciding on the validity of an application and notifying the applicant.

Section 33 – Notice of accepted applications and publicity.

The Minister should consider the comments of stakeholders in this Report when developing the subordinate legislation.

Recommendation

Recommendation 13. The Minister should bring forward amendments to the Bill to provide more clarity in relation to consultation and publicity processes. The Minister should consider as a starting point, the provisions of the Planning Act 2008.

Recommendation 14. The Minister should, in her response to this Report, set out the timelines for making regulations under section 30. Given the centrality of public consultation to the new regime, the Minister should publish and consult on the draft regulations.

Recommendation 15. The Minister should publish guidance for stakeholders on best practice and expected standards for community consultation.

5. Parts 4 and 5 - Examining Applications and Deciding applications for infrastructure consent

99. Part 4 outlines the processes and procedures for examining applications for infrastructure consent.

100. Part 5 contains provisions about deciding applications for infrastructure consent. This Part makes provision about who decides an application for infrastructure consent made under Section 31, about what the decisionmaker has to take into account when deciding an application, about the timetable for making the decision, and about making the decision.

Part 4 - Evidence from stakeholders

Section 39 - Appointing an examining authority

101. Section 39(1) requires the Welsh Ministers to appoint a person or a panel of persons to examine each valid application for infrastructure consent.

102. Llanarthne and Area Community Pylon Group stressed the importance of ensuring the examining authority remained impartial and free from any vested interests. They highlighted concerns that authorities appointed by decision-makers might reflect the current government's policies or politics. They suggested a cross-party appointment process to ensure transparency and objective selection of personnel for the examining authority.

103. NFU Cymru emphasised the importance of outlining the provisions for the appointment of examining authorities in the Bill rather than in subordinate legislation.

104. NRW emphasised the necessity for specific expertise when reviewing marine applications, recommending that appointed examining authorities possess the competence to conduct thorough assessments of such projects. Addressing marine conservation, Ross Evans, Campaign for the Protection of Rural Wales, pointed out the lack of reliable data concerning marine areas and

the potential hurdles for renewable energy projects like floating offshore wind. He urged the designation of marine conservation zones before the Bill's implementation.

Sections 40-51 – Examining applications

105. Sections 40-51 make provisions in relation to the examination of applications.

106. The examining authority's discretion to decide the format of an application's examination—whether a written procedure, hearing, or inquiry was considered. Some stakeholders expressed reservations that this discretion could cause uncertainty, whereas others appreciated the flexibility of the provision. Sonny Robinson, Network Rail, supported the flexibility but warned against defaulting to inquiries. He recommended there should be a justification for the chosen method. NIPA agreed, saying that:

> *"In order to fast track the delivery of new energy infrastructure in Wales, local inquiries should only be used in exceptional circumstances for the examination of SIP applications. NIPA expects that for most projects the most appropriate form of examination will consist of a primarily written process supplemented by hearings on specific issues where required, e.g. compulsory acquisition or project-specific issues."*

107. RWE Renewables highlighted the difficulty for applicants in predicting the resources and costs due to the varied processes presented. They urged that the criteria for determining the approach should be transparent. They believed that local inquiries should be reserved for exceptional situations. They anticipated that a predominantly written process, augmented by hearings on particular subjects, such as compulsory acquisition or project-specific matters, would be the most suitable method of examination for the majority of projects.

108. Liz Dunn, RenewableUK Cymru, addressed the Planning Act 2008's provision that allows examining authorities to assess whether submitted material is comprehensive enough for meaningful examination. She confirmed that schemes have been denied examination in England when the information provided was inadequate. James Davies, Planning Aid Wales, and Dr Roisin

Willmott, RTPI Cymru, agreed that an examining authority should decide if the material submitted for a project is comprehensive enough for meaningful examination.

109. The Llanarthne and Area Community Pylon Group recommended that it should be mandatory, rather than discretionary, to issue regulations under section 42. They also suggested that provisions for appointing specialist counsel should be broadened, allowing for the selection of any suitable expert, whether the application is being assessed on paper or through a hearing.

Section 50

110. RWE Renewables expressed apprehension about the broad power given to the Welsh Ministers in Section 50, allowing them to mandate further examination of an application. They emphasised the necessity for clarity in the subordinate legislation detailing the conditions under which this power might be used. They believed this power should only be exercised in exceptional circumstances. Bute Energy and NIPA agreed, with the latter saying:

> *"there is no timescale specified and no indication as to how this would fit within the overall 52-week period in s56(1) – this undermines the 'certainty' objective of the proposed Bill."*

Section 51 – Orders relating to costs of parties on examination proceedings

111. The Llanarthne and Area Community Pylon Group expressed concerns about provisions in this section that would permit the Welsh Ministers to issue costs against an objector. They felt that such provisions could deter individuals or community groups from pursuing legitimate objections due to the fear of financial repercussions.

Part 5 - Evidence from stakeholders

Section 52 - Decision maker

112. Section 52 states that the examining authority has the function of deciding applications for infrastructure consent of a description specified in regulations and that the Welsh Ministers have the function of deciding any other application for infrastructure consent. The Welsh Ministers may direct that an examining

authority has the function of deciding the application instead of the Welsh Ministers, or that the Welsh Ministers have the function of deciding an application instead of an examining authority.

113. Isle of Anglesey County Council viewed the flexibility in Section 52 as a significant departure from the established norms of the Planning Act 2008. They called for clarification and guidance on how this newfound discretion would be exercised by the Welsh Ministers.

114. RSPB Cymru expressed reservations about the circumstances under which the discretionary power would be used, with references to the 2018 consultation paper indicating that this might be in situations deemed "uncontroversial." RSPB Cymru emphasised the potential democratic deficit if decisions were taken by examining authorities rather than elected officials. They believed Welsh Ministers should retain the final decision-making power due to their political accountability.

115. Kelvin MacDonald also believed that politics couldn't be removed from major infrastructure decisions and emphasised the importance of accountability. Hannah Hickman supported this view.

116. Steve Ball, Cardiff Council, felt that significant national infrastructure projects should be the subject of decisions by Ministers. He proposed that applications falling below certain thresholds should be handled by the examining authority, with an exception mechanism in place for Ministerial intervention. Peter Morris, Powys County Council, was neutral on the matter. He believed that as long as the decision was based on evidence and handled transparently, it didn't matter who made the final decision.

117. The Llanarthne and Area Community Pylon Group were wary of the discretionary powers under this section. The group proposed a mechanism for review, appeal, and reversal of such decisions. Ross Evans, Campaign for the Protection of Rural Wales, agreed on the need for an appeals process. He argued that the current sole recourse—judicial review—is prohibitively expensive, especially for communities.

Section 53

118. Section 53 provides that applications must be decided in accordance with any infrastructure policy statement relating to the type of development to which the application relates, the National Development Framework (NDF) or the Marine Plan where relevant. Where a provision in a relevant policy statement is incompatible with provision in the NDF or Marine Plan it must be decided in accordance with the relevant policy statement.

119. Steve Brooks, NICW, highlighted two possible views regarding infrastructure policy statements. One sees them as supplementary to the NDF and Marine Plan, filling in gaps as needed. The other sees them as a suite of infrastructure policy statements, offering clear guidelines on the Welsh Government's primary policies. Whichever the preferred approach, he underscored the need for clarity and confidence in the policy environment.

120. Liz Dunn, RenewableUK Cymru, highlighted the importance of national policy statements under the Planning Act 2008, emphasising their role in providing clarity to developers. Matthew Hindle, Wales & West Utilities, agreed that the precedence of the infrastructure policy statements would provide clarity to decision-makers. Liz Dunn concluded that a tier of infrastructure policy statements was necessary, and they should align with the NDF and the Marine Plan.

121. NIPA expressed concern about the suggestion that the Welsh Government "does not propose to introduce policy statements other than for novel technologies or issues." They said:

> *"This is a major concern and NIPA strongly encourages the Welsh Government to reconsider the position and to introduce policy statement(s) covering the development of new energy and transport infrastructure. Whilst Future Wales contains a strong degree of general support for new renewable energy development, NIPA considers that the successful delivery of Wales' renewable energy targets requires the need case for additional energy and transport infrastructure to be expressed in the clearest and strongest possible terms, with a strong starting presumption in favour of development and an*

> *acknowledgement that it will not be possible to deliver the infrastructure required without some residual adverse impacts arising."*

122. TfW emphasised the need to ensure that national plans or policies are clear, because:

> *"the grounds for a large number of legal challenges to the equivalent legislation in England have been on public policy grounds, there would have to be significant effort from the Welsh Government to ensure that published policy documents for infrastructure projects remain relevant and consistent with other policy set by the Welsh Government."*

123. Dr Roisin Willmott, RTPI Cymru, expressed reservations about having numerous infrastructure policy statements. She emphasised the already robust policy landscape in Wales, citing the NDF and 'Planning Policy Wales' as strong foundational documents. However, she felt that infrastructure policy statements could be beneficial for new and emerging technologies. She warned against creating a surplus of infrastructure policy statements, which might clutter the policy landscape.

124. Conversely, Dr David Clubb, NICW, believed that having separate policy statements for each sector would be beneficial. This way, when a gap is identified, it can be immediately addressed, and the primary framework can remain stable with infrequent updates.

125. Rhian Jardine, NRW, acknowledged the potential usefulness of infrastructure policy statements, especially for new and emerging technologies. She believed there were no pressing policy gaps but suggested a review to confirm this. She highlighted the importance of conducting environmental assessments for any new infrastructure policy statements, as had been done for the NDF and Marine Plan.

126. RSPB Cymru felt the Marine Plan wasn't comprehensive enough for marine environment decisions. Along with the Marine Conservation Society, they advocated for a marine development plan addressing the plan's perceived gaps. The Marine Conservation Society said:

> *"An additional, much-needed solution to consenting barriers would be the introduction of a marine development plan – covering both inshore and offshore marine areas. This would guide development, within a defined geographical area, by setting out both a spatial planning context and a set of detailed planning policies which decision makers can use to determine individual applications. An assessment and allocation of sites via a marine development plan would provide greater clarity and a degree of acceptability to schemes at an early stage. It can limit the scope of conflict at application stage and thus has the potential to speed up the consenting process whilst also protecting a fragile marine ecosystem."*

127. Kelvin MacDonald highlighted that although the Bill states that policy statements will take precedence over national plans, the Bill makes no provision as to the process by which they would be adopted. The Bill would not require these statements to be approved by the Senedd. He suggested that "given the importance of these documents, the Committee may wish to consider whether such a requirement should be on the face of the Bill". Annie Smith, RSPB Cymru, agreed that it was concerning that infrastructure policy statements would take precedence over national plans subjected to public consultation, examination, and scrutiny, such as the NDF. She felt they should undergo a thorough process, similar to national policy statements under the Planning Act 2008.

Section 56 – Timetable for deciding an application for infrastructure consent

128. Section 56 makes provision about the timetable for deciding applications for infrastructure consent. Subsection (1) states that the examining authority or the Welsh Ministers must decide an application before the end of the period of 52 weeks beginning with the day on which the application is accepted as valid under Section 32, or such other period agreed between the applicant and the Welsh Ministers. Additionally, section 56(2) allows the Welsh Ministers to extend the periods in section 56(1) by direction. Section 56(6) also includes a regulation-making power to enable the Welsh Ministers to amend the 52-week time period specified in 56(1)(a).

129. Kelvin MacDonald believed the 52-week timescale set out in the Bill is flawed. According to him, while the Bill borrows from the 2008 Act in terms of allocation of time for inquiry, report writing, and decision-making, it neglects the initial phases involving public consultations, representations, and decisions on how the inquiry would be conducted. This omission, he argued, rendered the timescale infeasible as drafted.

130. NIPA felt that the omission of timescales for specific parts of the process was a serious omission. They said:

> *"We strongly encourage the inclusion of statutory periods for each stage of the examination and decision-making process to provide applicants and other parties with more certainty."*

131. Statkraft and the Association of British Ports supported this suggestion, with the latter saying that:

> *"Breaking down the overall 52 week period outlined in section 56 of the Bill would be helpful to ensure a timely decision on applications can be made."*

132. Bute Energy believed that there should be:

> *"specific statutory timescales on the face of the Bill to provide a clear expectation for applicants, consultees and Welsh Minsters about the time period allocated for examining and determining SIPs. As drafted, the Bill creates an expectation that timescales can be extended and provides no framework for the circumstances under which this could occur."*

133. Rhian Jardine, NRW, also highlighted the criticality of the pre-application consultation phase in achieving the 52-week deadline. She accepted that the timescale might be challenging for some complex projects. Steve Brooks, NICW, discussed the need for flexibility in unforeseen circumstances and highlighted the importance of transparency in the process, suggesting mechanisms to ensure that if a decision is delayed, the rationale is communicated clearly and transparently.

134. Ross Evans, Campaign for the Protection of Rural Wales, was not overly concerned about the 52-week time frame. However, he believed specific sub-requirements should be established, especially concerning public consultations. He referred to an instance where the public was given five weeks to respond to 250 published documents, which he believed was inadequate.

135. Hannah Hickman drew attention to the flexibility provided in the Bill that allows Welsh Ministers to extend the 52-week period but felt that the extent of such extensions might need to be defined.

136. Bute Energy highlighted that under the Nationally Significant Infrastructure Projects (NSIP) consenting process (established by the Planning Act 2008), should the Secretary of State extend the deadline for determining an application following receipt of an Inspector's report, then a statement must be made to Parliament setting out a new deadline. It argued the Bill should include an equivalent provision in relation to the Senedd.

137. NIPA raised concerns about the absence of a "time limit within which the Welsh Ministers must decide whether or not to accept an application." They said this needed to be addressed and:

> *"The inclusion of a statutory time period for validation of SIP applications in primary legislation would provide applicants with greater certainty and help to ensure that the headline 52 week determination period for SIP applications is not undermined by an unduly long or uncertain validation period."*

Section 57 – 59 - The decision

138. Sections 57-59 make provision relating to the making and notification of decisions by the examining authority or the Welsh Ministers, as the case may be.

Section 57 – Grant or refusal of infrastructure consent

139. In relation to Section 57, NFU Cymru emphasised the need for examining authorities to report to Welsh Ministers and that the final decisions on applications should be made by Ministers.

140. RSPB Cymru was concerned that Section 57(5) suggested that Welsh Ministers would have no discretion to refuse the granting of an infrastructure consent order if an examining authority had decided it should be granted. They sought assurance that Ministers would have the ultimate decision-making power, especially in contentious or environmentally significant cases.

141. Bute Energy expressed concern about the wording of Section 57(6). They said:

> *"Section 57(6), which allows Welsh Ministers to grant consent for a 'materially different' proposal, raises concerns as currently worded. Again, the regulatory provisions for this will be key to understanding how this mechanism is to work and in what context. The current wording suggests that applicants could potentially receive consent for a 'materially different' proposal. This would undoubtedly give rise to objections from statutory consultees who may have not been afforded the opportunity to comment on the alternative proposal."*

Section 59 – Reasons for decision to grant or refuse infrastructure consent

142. Regarding Section 59, the Llanarthne and Area Community Pylon Group felt the Bill was ambiguous about the persons to whom the Welsh Ministers should relay their decision. They also pointed out the lack of clarity about whether the decision would mention any objections received and the reasons for their acceptance or rejection. The group deemed it essential that all objectors be directly informed of the decision, especially since the bill allows only a six-week window for filing an application for judicial review after the decision on the application.

143. NFU Cymru reiterated their position on the need for transparency in explaining the rationale behind any decision to grant or reject infrastructure consent.

Evidence from the Minister

144. The Minister was asked about her intentions in relation to the Section 41 power, for examinations to take place at a hearing, at a local inquiry, or by any

combination of these procedures. She said she expected public inquiries would be "pretty exceptional" and confirmed the provision was included in the Bill to provide flexibility.

145. In reference to the provisions in the Bill which allow either the examining authority or the Welsh Ministers to make the decision, the Minister said:

> *"We anticipate that the majority of the decisions will be for the Welsh Ministers to make. I suppose this gives us the flexibility where something becomes more routine to allow the examining authority to do it without having to go through the additional Welsh Ministers' loop."*

146. The Committee asked whether the Bill should include an equivalent provision to Section 55 of the Planning Act 2008, which allows an examining authority to consider whether the material submitted is comprehensive enough to allow a meaningful examination to take place. The Minister said she believed an examining authority "already has the ability to ask for more information if they need it." An official accompanying the Minister expanded on this, saying:

> *"It might not be on the face of the Bill, but that is the process that is followed as part of the examination."*

Timetable

147. The Committee asked the Minister to respond to the views of stakeholders that there is too much flexibility in the Bill to change the timeframes for deciding applications. The Minister said:

> *"We think that the overarching timetable should be set on the face of the Bill, so that's 52 weeks... It's very similar to the Planning Act 2008. Then the sub-time frames, like the period of time to validate an application or the examination period and so on, will be in the regulations, so that we can keep them under review if things aren't working out."*

148. In response to the suggestion that a statement should be made to the Senedd, in circumstances where the Welsh Ministers wish to extend the

deadline for determining an application, the Minister suggested that this could lead to delays and questioned the purpose and benefit of the proposal.

Infrastructure policy statements

149. The Minister did not think it was necessary to create a comprehensive suite of Infrastructure Policy Statements, covering each of the fields in Part 1. The Minister was unequivocal that there was no ambiguity in the NDF or Marine Plan. In reference to whether there are policy gaps in relation to the fields in Part 1, an official accompanying the Minister said:

> *"I haven't come across any DNS applications where we haven't got a policy basis to make decisions, for example, although, saying that, if something novel comes along, we may need a policy statement to address that gap. But we don't see any at the moment."*

150. An official accompanying the Minister confirmed the hierarchy of policies that will be considered under the new regime:

> *"Currently, as the Bill is drafted, if there was any conflict between the policy statements and the NDF or the marine plan, then the policy statement would have precedence. We are re-examining that…"*

151. The Committee asked the Minister to respond to the point that a document designated as an infrastructure policy statement for the purposes of the Act, in accordance with Section 124, might not be subject to any Senedd scrutiny, unlike the NDF. The Minister responded that infrastructure policy statements will be subject to "all of the consultation engagement, the sustainable development principles and the well-being of future generations five ways of working that we always do for all of our policy documents." She added that would consider proposals from the Committee on this matter.

Our view

Section 41

We note the Minister's comments that the use of public inquiries will be exceptional. We welcome the provisions in the Bill that the Welsh Ministers must publish the criteria by which the approach will be decided. However, again, it is not possible for the Committee to make a judgement on the detail of the provision as it is absent from the Bill. We believe the Welsh Government should, in response to this Report, set out the circumstances where it considers that an application could be determined by means of an inquiry.

Section 52

We welcome the Minister's comments that most decisions will be for the Welsh Ministers rather than the Examining Authority. We agree, however, with stakeholders that Welsh Ministers should, as a matter of principle, make decisions on significant infrastructure projects based on the report of an examining authority.

We believe that the Minister should bring forward amendments to ensure that Welsh Ministers are the default decision-makers for significant infrastructure projects. We emphasise that we would be content for some of the provisions of section 52(4)(a) to remain so that the Welsh Ministers may direct that an examining authority has the function of deciding the application in certain circumstances. Regulations should specify the criteria that must be applied in making such a direction.

In any event, the Minister should publish the criteria for deciding on a direction under section 52.

Section 53

The provisions in section 53 are a foundational part of the new regime. As drafted, they set out that infrastructure policy statements have primacy over national plans such as the NDF and Marine Plan. However, the Minister told the Committee this was being re-examined.

That such a fundamental matter is being considered during the passage of the Bill through the Senedd is a cause for concern. We believe the Minister should explain the reasons for this.

We note that the Minister told us that infrastructure policy statements will only be necessary for novel policy areas. She asserted that, there are no policy gaps in the NDF or Marine Plan. However, we heard the opposite view from many contributors to the Committee's work.

We are concerned that the Minister should have diametrically opposing opinions compared to contributors. We expect the Minister to engage with stakeholders to reach some common ground on the need for these policy statements. We believe this is particularly the case for the Marine Plan, about which stakeholders have raised ongoing concerns, and which has been the subject of several recommendations from this Committee in recent years.

We note the comments about the status of infrastructure policy statements. Notwithstanding the Minister's comments about their need, we agree there is merit in ensuring that, like National Policy Statements in the Planning Act 2008, a parliamentary scrutiny process is attached to them. They should be subject to consideration and agreement by the Senedd.

We note that Section 124 provides that the Welsh Ministers may designate a document as an infrastructure policy statement for the purpose of the Bill. In such circumstances, we believe the Minister should notify the Senedd. Furthermore, if any such policy document has not hitherto been subject to Senedd consideration and agreement, it should be before it can be so designated.

Section 56 – Timetable for deciding an application for infrastructure consent

Stakeholders generally supported the overall timetable of 52 weeks for deciding an application for infrastructure consent. However, the overwhelming view was that this should include timeframes for delivering the separate parts within those 52 weeks. We are pleased that the Minister has indicated agreement to this and note that it will be achieved in regulations. In principle,

we agree with the need for flexibility, but we regret the lack of transparency due to this approach.

We believe the Minister should bring forward amendments to set out on the face of the Bill a detailed timetable for the 52-week period for deciding on an application. We note that stakeholders have not been consulted on these detailed proposals – this is regrettable. However, it should not be used as an excuse not to improve the Bill.

We propose that, as a starting point, the timelines on the face of the Bill should be the same as the Planning Act 2008. The Welsh Government should bring forward an amendment to enable them to amend those specific timescales through subordinate legislation (so-called Henry VIII powers). The Minister takes a similar approach elsewhere in this Bill and has done so in other Acts, so we see no reason for her to object in principle.

We believe the Minister should consult stakeholders at the earliest opportunity to ensure that the timelines on the face of the Bill are appropriate. If, as a result of the consultation, she believes they need to be changed, that can be achieved through subordinate legislation.

We agree with the suggestion from stakeholders that, should the Minister decide that the 52-week period should be extended, the Minister must notify the Senedd by means of a written statement. This is to ensure that there is transparency around the reasons for the need for an extension. The Minister should bring forward amendments at Stage 2 to give effect to this.

Recommendation 16. The Minister should, in response to this Report, set out the circumstances where she considers that an application could be determined by means of an inquiry.

Recommendation 17. The Minister should bring forward amendments to ensure that Welsh Ministers are the default decision-makers for significant infrastructure projects. Notwithstanding this, the Minister should ensure the Bill contains provisions to enable the Welsh Ministers to direct that an examining authority has the function of deciding the application in certain, specified circumstances. Regulations should specify the criteria that must be applied in making such a direction.

Recommendation 18. The Minister should publish the criteria for deciding on a direction under section 52.

Recommendation 19. The Minister should explain why the issue of the primacy of infrastructure policy statements over national plans was still being considered after the introduction of the Bill.

Recommendation 20. The Welsh Government should engage with stakeholders to address concerns about the need for infrastructure policy statements under section 53 to fill policy gaps in national plans.

Recommendation 21. The Minister should bring forward amendments to ensure that infrastructure policy statements are subject to consideration and agreement by the Senedd.

Recommendation 22. Where the Welsh Ministers, in accordance with section 124, determine to designate a document as an infrastructure policy statement for the purpose of the Bill, the Minister should notify the Senedd. The Minister should ensure that the Senedd has considered and agreed the document before any such designation can be made.

Recommendation 23. The Minister should bring forward amendments to set out on the face of the Bill a detailed timetable for the 52-week period for deciding on an application.

Recommendation 24. The Minister should consult stakeholders at the earliest opportunity to ensure that the timelines on the face of the Bill are appropriate. If, as a result of the consultation, she believes they need to be changed, that can be achieved through subordinate legislation.

Recommendation 25. If the Minister determines to extend the 52-week period in accordance with section 56(2), the Minister must notify the Senedd by means of a written statement. The Minister should bring forward amendments at Stage 2 to give effect to this.

6. Parts 6 and 7 - Infrastructure consent orders and Enforcement

152. Part 6 relates to infrastructure consent orders, including what may feature in an infrastructure consent order, includes provisions about orders authorising compulsory purchase, and the procedure for publication of infrastructure consent orders.

153. Part 7 contains provisions about offences relating to development without infrastructure consent and a breach of, or failure to comply with, the terms of an infrastructure consent order and the ability to serve notices of unauthorised development.

Part 6 - Evidence from stakeholders

Sections 61 – 69 - Provision in orders authorising compulsory acquisition

154. Sections 61 and 62 set out that an infrastructure consent order may only include a provision authorising the compulsory acquisition of land if the Welsh Ministers are satisfied that specified criteria in relation to the land are met.

155. In reference to Section 61, NFU Cymru emphasised the importance of ensuring that compulsory land acquisitions were limited strictly to what was necessary for the completion of relevant works. They believed that any acquisition should be kept to the absolute minimum, ensuring that land was not taken excessively or unnecessarily.

156. The Llanarthne and Area Community Pylon Group had reservations regarding Section 62(1)(b). They believed that instead of just one, at least two of the conditions listed in sub-sections (2), (3), and (4) should be met before a consent order can include provisions for compulsory purchase.

Section 72 – Extinguishment of rights etc

157. Sonny Robinson, Network Rail, referred to Section 72 and emphasised the importance of ensuring that any decisions do not hinder Network Rail's statutory obligations. He emphasised the need for dialogue and consensus between

infrastructure developers and statutory undertakers to understand the potential impacts of such decisions. He contrasted Section 72 with Section 65, noting that the latter provides clearer criteria on acceptable practices concerning compulsory purchase of the land of statutory undertakers.

Section 73 – Crown land

158. In terms of Crown land, RWE believed the need to procure approval from the corresponding Crown authority should be restricted only to compulsory purchase powers. Drawing from their previous experiences, they noted that some Crown entities demand exhaustive explanations for the application of order provisions to every parcel of Crown land, leading to undue delays and expenses.

Sections 86 - 90 - Making changes to, and revoking, infrastructure consent orders

159. While RWE supported the power to rectify errors within the Bill, they cited their prior experiences with the Planning Act 2008, where finalised development consent orders often contained minor mistakes. They found the procedure of needing an applicant to ask for corrections inefficient, suggesting that, to reduce such delays, the Welsh Ministers might share the prospective final version of an infrastructure consent order with the applicant to address any minor drafting issues.

Sections 91 – 98 - Effect of infrastructure consent orders

160. Newport City Council were concerned that the definition of "material operation" in Section 92 was ambiguous. They referenced Section 56(4) of the Town and Country Planning Act 1990, which provided specific examples of "material operation", and suggested the Bill should be clearer.

Part 7 - Evidence from stakeholders

Sections 100 – 107 – Offences

161. Newport City Council believed that the proposals for enforcement were “unworkable”. They noted ambiguity in Sections 100 and 101 regarding who

would be responsible for bringing forward a charge, be it the Local Planning Authority, Welsh Ministers, or another entity.

162. Steve Ball, Cardiff Council, agreed. He was concerned about the implications of the introduction of a criminal offence for planning breaches. James Good, NIPA, was uncertain about how these provisions would apply in practice. He noted that no action, to his knowledge, had been taken against a National Significant Infrastructure Project (NSIP) in England.

163. NRW expressed concerns about the enforcement section in relation to Marine Licences. While NRW plays a part in discharging conditions, particularly concerning deemed marine licences, they do not possess the authority to enforce Marine Licences. This enforcement function has been held by the Welsh Government. NRW recognised the provision within Section 107 that allows Welsh Ministers to designate marine enforcement personnel. They expected that the Welsh Government would maintain its current role in overseeing enforcement for marine licences.

Sections 108 – 109 - Information notices

164. NFU Cymru believed that the period specified in Section 109 (1) should be increased from 21 days to 28 days, given that this provision involves a criminal offence.

Section 110 - Notices of unauthorised development

165. Newport City Council noted the provisions would only apply once an individual has been charged and subsequently found guilty of an offence. Given the potential length of legal proceedings and the reliance on court decisions, this could introduce significant delays in the enforcement process.

Sections 114 – 119 - Temporary stop notices

166. Newport City Council observed that these stop notices could only be served for a brief 28-day period. Given the time needed to investigate and charge an individual, such a temporary notice might prove ineffective. Additionally, there seemed to be no provisions in the Bill for appealing such notices.

Evidence from the Minister

Crown land

167. In reference to the suggestion that the need to obtain the consent of the appropriate Crown authority should be limited to compulsory acquisition powers only, and not for other provisions in an order which relates to Crown land, an official accompanying the Minister said the provisions in the Bill reflect "usual practice". He added:

> *"Any provisions that affect Crown land need to obtain the consent of the Crown authority, otherwise it cannot be incorporated as part of the infrastructure consent order, and that should be obtained as soon as possible."*

168. The Minister added that she would expect developers to begin discussions with relevant landowners at an early stage.

Enforcement

169. The Minister responded to concerns about the clarity of the enforcement provisions in the Bill. She said:

> *"By and large, the enforcement is done by the local planning authority, unless there are very specific national reasons not to do so. I think probably colleagues on the committee are very aware of the one that we've recently overreached a local planning authority for, and you'll see that that's been in the news for a long time, and it's a really big deal. And that's what we're saying here. So, I think it's pretty straightforward— it's the local planning authority, unless there's some huge national significance reason why the Welsh Ministers should enforce. For offshore, we're the enforcement authority anyway."*

170. She added that further clarification would be provided in guidance, if necessary.

Our view

We note the concerns expressed by local government representatives about how the enforcement provisions would work in practice.

The Minister has indicated that enforcement action is likely to be rare as the financial implications of such action are too big a risk for developers. She also indicated that assistance would be provided to local planning authorities if enforcement proceedings were required.

On the effect stop-notices, we believe the Minister should explore whether so-called "padlock powers", which would ensure that work ceases immediately, are necessary and desirable in this Bill.

We also believe the Minister should ensure that the public understands clearly the routes open to them to raise concerns they may have in relation to developments in good time. The Minister should explain how the Bill will provide for this.

We welcome the Minister's commitment that guidance will be provided on the application of these provisions.

Recommendation

Recommendation 26. The Minister should set out the assistance that will be available to local planning authorities where enforcement proceedings are necessary.

Recommendation 27. The Minister should consider whether provisions on so-called "padlock powers" in relation to temporary stop notices should be included in the Bill.

Recommendation 28. The Minister should clarify in guidance the routes that are open to the public to raise concerns about unauthorised development.

7. Parts 8 and 9 - Supplementary Functions and General Provisions

Part 8 - Supplementary Functions

171. Part 8 provides a number of supplementary functions, mainly for the Welsh Ministers, to facilitate the operation of the system established by the Bill and to give the Welsh Ministers powers to adjust the system by disapplying its requirements or making special provision for applications by the Crown (which includes Crown offices and bodies).

Evidence from stakeholders

Section 121 – Fees for performance of infrastructure consent functions and services

172. This Section provides the Welsh Ministers with the power to make regulations in relation to the charging of fees by a specified public authority for performing an infrastructure consent function and for the provision of an infrastructure consent service.

173. The WLGA told the Committee:

> *"It is expected that the proposed approach will result in prospective applicants wishing to front-load the preparation of Significant Infrastructure Project applications in order to ensure that applications are sound at the time of their submission. Prospective applicants can be expected to want to engage early with Local Authorities in order to ensure issues are addressed by the time of submission and that Local Impact Reports are positive and favourable. As such Local Authorities can be expected under the proposed regime to be placed under further and increased demands to engage and support the early development and evolution of Significant Infrastructure Projects. This has resource and capacity implications for Local Authorities."*

174. Isle of Anglesey County Council voiced concerns about the financial burden placed on planning authorities by consultation and response obligations. The Council found Sections 30, 35, and 126(2) - pertaining to pre-application consultation, local impact reports, and the requirement to respond to Welsh Government consultations - to be particularly resource-intensive.

175. NRW emphasised the importance of having sufficient resources to respond to applications, and fees were integral to that resourcing. They suggested that consultees should be empowered to formulate their charging systems, with the agreement of the Minister.

Sections 122 and 123 - Powers of entry to survey land

176. The Llanarthne and Area Community Pylon Group expressed concerns regarding Section 122(2). They questioned the meaning of the phrase "project of real substance" and emphasised the need for a clear definition. The group believed that determining if an entry criterion has been met should be carried out objectively. They argued that any authorisation should only be granted after the issuance of the pre-application consultation report, insisting that the Ministers should take this report into account when making their decisions.

177. NFU Cymru took issue with Section 122(9), which designated a person guilty of an offence under this Section as liable to a fine upon summary conviction. Drawing a parallel with the Planning Act 2008, NFU Cymru believed that there should be a clearly defined maximum limit to any such fine. They suggested that, in line with the Planning Act 2008, the cap should be set to level 3 on the standard scale.

Section 126 – Power to consult and duty to respond to consultation

178. Section 126 gives a power to the Welsh Ministers or an examining authority to consult a public authority specified in regulations as part of the examination process with the result that the authority has a duty to give a substantive response to that consultation within a specified timeframe.

179. RWE Renewables supported the addition of an obligation for consultees to reply to consultations. Additionally, they supported the power granted to the Welsh Ministers to mandate specific actions by public authorities concerning an

application. However, they emphasised the need for these statutory powers to be mirrored in the allocation of resources and funding for consultees.

180. Network Rail noted the relevance of this Section to their operations. Network Rail requested to be recognised explicitly as a statutory consultee within the infrastructure consent process.

Evidence from the Minister

181. The Committee asked the Minister about the optimisation of the fee structure, and the evidence that developers would be prepared to pay higher fees in return for a guaranteed level of service. In response, the Minister said that the problem was not only about fees, but also skills and expertise:

> *"So, it isn't just about the level of the fees, is it? I'm smiling because one of the conversations I have with developers all the time is that it's no good them complaining to me that the local planning authority is going slowly when they've just fished three of the local planners out of the planning authority to work on their application."*

182. The Minister explained that the Welsh Government was working with local planning authorities to try and mitigate against this problem. This had included making "sure that we have a proper planning careers structure and that the local planning authorities can hold on to people".

Our view

As set out in the Chapter on the general principles of the Bill, resources were a key issue for many of the contributors to the Committee's scrutiny. We were pleased that the Minister was able to give a commitment to the principle of full cost-recovery. We noted, however, a concern amongst consultees and local planning authority representatives that there would be an increased demand on scarce resources under the new regime. Stakeholders did not share the Minister's optimism that the impact on resources would diminish over time, as the new, streamlined approach beds in.

The Minister should provide an update during the Stage 1 debate on discussions with consultees, local planning authorities, and other stakeholders about how full cost-recovery will be achieved.

We note the comments from stakeholders in relation to section 122. We believe the Minister should explain her understanding of the meaning of a project of "real substance" and the level of fine that may be given for an offence under this section.

Recommendation 29. The Minister should provide an update during the Stage 1 debate on discussions with consultees, local planning authorities, and other stakeholders about how full cost-recovery will be achieved.

Recommendation 30. The Minister should explain her understanding of the meaning of a project of "real substance" in section 122, and set out her position on the level of fine that may be given for an offence under this section.

Annex 1: List of oral evidence sessions.

The following witnesses provided oral evidence to the committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the Committee's website.

Date	Name and Organisation
6 July 2023	**Julie James MS - Minister for Climate Change,** Welsh Government **Neil Hemington,** Welsh Government **Owen Struthers,** Welsh Government **Nicholas Webb,** Welsh Government
13 September 2023 **Panel 1**	**Hannah Hickman,** University of the West of England **Kelvin MacDonald,** University of Cambridge
13 September 2023 **Panel 2**	**Sara Morris,** Pembrokeshire Coast National Park Authority **Steve Ball,** Development Management, Cardiff Council **Peter Morris,** Powys County Council
20 September 2023 **Panel 1**	**Lisa Phillips,** Natural Resources Wales **Rhian Jardine,** Natural Resources Wales **Dr David Clubb,** National Infrastructure Commission for Wales **Steve Brooks,** National Infrastructure Commission for Wales

Date	Name and Organisation
20 September 2023 **Panel 2**	**James Davies,** Planning Aid Wales **Dr Roisin Willmott,** RTPI Cymru
28 September 2023 **Panel 1**	**James Good,** National Infrastructure Planning Association **Eleri Davies,** RWE Renewables UK National Infrastructure Planning Association
28 September 2023 **Panel 2**	**Liz Dunn,** RenewableUK Cymru **Tom Hill,** Marine Energy Wales **Matthew Hindle,** Wales & West Utilities
28 September 2023 **Panel 3**	**Gwyn Rees,** Network Rail **Geoff Ogden,** Transport for Wales
28 September 2023 **Panel 4**	**Annie Smith,** RSPB Cymru **Ross Evans,** Campaign for the Protection of Rural Wales
18 October 2023	**Julie James MS - Minister for Climate Change,** Welsh Government **Neil Hemington,** Welsh Government **Owen Struthers,** Welsh Government **Nicholas Webb,** Welsh Government

Annex 2: List of written evidence

The following people and organisations provided written evidence to the Committee. All Consultation responses and additional written information can be viewed on the Committee's website.

Reference	Organisation
IWB 01	Individual 01
IWB 02	NICW and the FGC
IWB 03	Federation of Small Business Wales
IWB 04	National Trust Cymru
IWB 05	RTPI Cymru
IWB 06	Isle of Anglesey County Council
IWB 07	Newport City Council
IWB 08	Individual 08
IWB 09	Cwmni Egino
IWB 10	Bat Conservation Trust
IWB 11	SP Energy Networks
IWB 12	MaresConnect Limited
IWB 13	Public Health Wales
IWB 14	Pembrokeshire Coast National Park Authority
IWB 15	Association for Consultancy and Engineering Wales
IWB 16	Marine Energy Wales
IWB 17	Llanarthne and Area Community Pylon Group
IWB 18	The Crown Estate
IWB 19	ScottishPower Renewables

Reference	Organisation
IWB 20	Design Commission for Wales
IWB 21	Network Rail
IWB 22	NFU Cymru
IWB 23	The Central Association of Agricultural Valuers (CAAV)
IWB 24	Marine Conservation Society
IWB 25	Wales & West Utilities
IWB 26	RWE Renewables
IWB 27	RSPB Cymru
IWB 28	Lightsource bp
IWB 29	National Grid Electricity Distribution
IWB 30	Ashfords LLP
IWB 31	EDF
IWB 32	CPRW
IWB 33	Natural Resources Wales
IWB 34	Individual 34
IWB 35	Hannah Hickman, UWE
IWB 36	Bute Energy
IWB 37	Pembrokeshire County Council
IWB 38	RenewableUK Cymru
IWB 39	Statkraft UK
IWB 40	Welsh Water
IWB 41	SEUK
IWB 42	Ynni Glân
IWB 43	Associated British Ports
IWB 44	Wildlife Trusts Wales
IWB 45	Planning Aid Wales
IWB 46	Kelvin MacDonald

Reference	Organisation
IWB 47	Transport for Wales
IWB 48	Welsh Local Government Association
IWB 49	National Infrastructure Planning Association