

Economy, Infrastructure and Skills
Committee
**National Infrastructure
Commission for Wales**

January 2017



National Assembly for Wales
Economy, Infrastructure and Skills Committee

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The Committee was established on 28 June 2016 to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters, encompassing (but not restricted to): economic development; transport; infrastructure; employment; skills; and research and development, including technology and science.

Current Committee membership:



Russell George AM (Chair)
Welsh Conservative
Montgomeryshire



Hannah Blythyn AM
Welsh Labour
Delyn



Hefin David AM
Welsh Labour
Caerphilly



Vikki Howells AM
Welsh Labour
Cynon Valley



Mark Isherwood AM
Welsh Conservative
North Wales



Jeremy Miles AM
Welsh Labour
Neath



Adam Price AM
Plaid Cymru
Carmarthen East and Dinefwr



David J Rowlands AM
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Chair's foreword

Since the Economy, Infrastructure and Skills Committee was established in July 2016, we have set high ambitions for our work. We want it to have influence and impact. The National Infrastructure Commission for Wales (NICfW) was highlighted as a key issue for the Welsh economy, when we consulted over the summer. We timed this inquiry so that our evidence and recommendations would feed in to the Welsh Government's consultation and the Cabinet Secretary's "pragmatic approach" to developing the NICfW.

In our inquiry we were keen to explore how other countries deal with infrastructure, and the evidence we received from Australia, where they have a Federal Infrastructure body, and a range of asymmetric state bodies, has been a valuable benchmark in our thinking.

Exploring the Welsh Government's proposals we have found much with which we agree. But we take a different view in three key areas:

- We believe there would be real benefits to establishing the NICfW on a statutory basis. While this need not delay its establishment, we are clear that if established on a non-statutory basis, there should be a presumption that legislation will follow at a suitable point in time.
- We understand the desire not to overload a new body, but we think the remit should be expanded to also include the supply of land for strategically significant housing developments and related supporting infrastructure alongside the economic and environmental infrastructure.
- The Well-being of Future Generations Act is intended to transform the thinking of public bodies in Wales. We believe these responsibilities should be "baked in" to the organisation from the outset, to promote collaboration with other public bodies, engagement with the Welsh public and independence from Government.

We have also made recommendations around how the NICfW should operate, and its relationships. The successes of the organisation will be built on how well it can develop those relationships, with the UK NIC, with Welsh Ministers, with regional and local authorities and also with the Future Generations Commissioner and Natural Resources Wales.

The Cabinet Secretary's vision of an independent expert body which can de-politicise contentious decisions that have far reaching consequences is compelling. To achieve that the NICfW will need to be able to bring genuine technical expertise, co-ordination and a long-term view to the way we plan infrastructure in Wales.

This is a considerable challenge – but an achievable one. We hope our recommendations will provide a basis for the swift establishment of a Commission that – once strengthened by legislation – can ensure Wales develops the essential infrastructure we all rely on for a prosperous 21st century nation.



Russell George AM, Chair, the Economy, Infrastructure and Skills Committee

Recommendations

Recommendation 1. The remit of the Commission should be extended to include the supply of land for strategically significant housing developments and related supporting infrastructure alongside the economic and environmental infrastructure. Page 12

Recommendation 2. The annual remit letter to the NICfW should include an indication of the scale of funding the Welsh Government expects to have available for infrastructure spending over the longest practical timescale. Page 15

Recommendation 3. There is a need for a dedicated team of people to pay close attention to how private funding is leveraged in to infrastructure development. The Welsh Government should consider whether that body is better placed within Finance Wales/Development Bank of Wales or the National Infrastructure Commission for Wales, and how it should collaborate with related work taking place in Welsh local government. Page 17

Recommendation 4. The Commission should be established as a non-statutory body, but with the clear presumption that legislation will follow to move the Commission to become a statutory, independent body. Welsh Government should assess how best to trigger the move to a statutory body. Page 20

Recommendation 5. To enhance its independence, the Commission should be based outside Cardiff, and should not share a building with Welsh Government departments. However, to minimise costs, it should share accommodation with another public body in a value for money location. Page 21

Recommendation 6. The Chair of the Commission should be subject to a pre-appointment hearing by a relevant Assembly Committee. The Commission, and its work, should be subject to scrutiny by a relevant Assembly Committee on an annual basis, following the publication of its annual report. Page 21

Recommendation 7. The NICfW should produce a regular “State of the Nation” report in a timescale disconnected from the political timetable. The Committee suggests every three years. The annual report should cover governance issues, and what the Committee has done over the previous 12 months, and its workplan for the coming 12 months. The Welsh Government should respond to

recommendations – whether in the triennial report or stand-alone pieces of work - within 6 months. Page 23

Recommendation 8. Appointments to the NICfW board should reflect the diverse communities of Wales to ensure an understanding of all parts of Wales. Given the importance of City/Growth Deals, the Board should consider establishing a forum to bring together and consider the work going on in each of the regions of Wales. Page 27

Recommendation 9. The Welsh Government should encourage NICfW to establish and develop strong relationships and information sharing with NIC and STF through its initial remit letter. The Committee believes the NICfW will have an important role in considering the implications of cross-border projects, and projects based wholly in England which have a major impact on Wales. ... Page 29

Recommendation 10. The NICfW should be considered a public body under the Well-being of Future Generations Act 2015. Page 30

01. Background to the inquiry

1. The compact between Welsh Labour and Plaid Cymru in May 2016 included a commitment to establish a National Infrastructure Commission in Wales (NICfW). The Cabinet Secretary for Economy and Infrastructure, Ken Skates AM, has responsibility for establishing the Commission.
2. During an initial scrutiny session at the Committee's meeting on 13 July 2016, the Cabinet Secretary for Economy and Infrastructure outlined the Welsh Government's plans for establishing the NICfW. The Commission will be an independent non-statutory organisation mirroring the National Infrastructure Commission (NIC) set up by the UK Government. It will provide expert and technical advice on a long-term strategy for investment in economic infrastructure, looking up to 30 years ahead but not revisiting decisions already made. It will need to consider recommendations of other bodies that have a statutory role relating to infrastructure and will work in a way that incorporates the principles of the Well-being of Future Generations (Wales) Act 2015. To create a joined-up approach, it is proposed that one member of the UK Government's Commission sit on the Welsh Commission.
3. Over the summer the Committee consulted widely, seeking views on setting its priorities for the Fifth Assembly. A number of organisations¹ stated that they would like to see the Committee scrutinise the establishment of the NICfW. Some of the key issues raised for consideration included the need for a long-term vision for infrastructure, what the role and remit of the Commission should be, how it will impact on key projects, learning from international best practice and how it can drive improvement on the current arrangements for delivering infrastructure.
4. The Committee agreed that the Welsh Government's plans to establish the NICfW was a key priority for scrutiny its strategy session on 15 September 2016.
5. On 17 October 2016, the Welsh Government issued its consultation document – A National Infrastructure Commission for Wales – which seeks views on the way the Commission is set up and run. The consultation closed on 9 January 2017.
6. The Committee arranged its evidence gathering in order to be in a position to communicate its findings to the Welsh Government in that timescale. Giving evidence to the Committee, Cabinet Secretary for the Economy and Infrastructure Ken Skates thanked the Committee for its “very timely” work in this area.

Terms of reference

7. This inquiry aims to obtain clarity for stakeholders on how the Welsh Government proposes to take the NICfW forward, to influence the development of Welsh Government policy in this area, and to make meaningful recommendations to the Government.
8. The Committee agreed the following terms of reference:

¹ CBI Wales, CITB Cymru Wales, the Welsh Local Government Association and a joint response from five engineering organisations called explicitly for scrutiny of the proposed National Infrastructure Commission for Wales. The importance of strategic infrastructure was also raised by: the Bevan Foundation, Cardiff Airport, Carnegie Trust, Civil Engineering Contractors Association, Colleges Wales, the Home Builders Federation, South and Mid Wales Chamber of Commerce, and the Wales Construction Federation Alliance. Flintshire County Council and the Mid Wales Manufacturing Group also raised the importance of local infrastructure.

- What the role, remit and objectives of the Commission should be;
- How the Commission should operate, and what methodologies it should adopt for conducting its work;
- How the Commission should be governed and funded to ensure its independence from the Welsh Government;
- Look at examples of UK and international best practice that the Commission could learn from;
- How the work of the Commission should incorporate the principles of the Well-being of Future Generations (Wales) Act 2015;
- How and to what extent the work of the Commission should influence Welsh Government decision making and prioritisation of infrastructure projects;
- How the work of the Commission should interact with regional infrastructure priorities and City/Growth Deals; and
- Consider what relationship the Commission should have with the UK Government's Commission on cross-border issues and infrastructure in areas that are partially devolved.

02. Remit

Economic and environmental infrastructure

9. The Welsh Government’s **proposals for the National Infrastructure Commission for Wales** (NICfW) state that it will provide independent and expert technical and strategic advice to the Welsh Government on Wales’ long-term infrastructure needs over a 5-30 year period. This will involve making regular reports to the Welsh Government on economic and environmental infrastructure² taking a cross-sectoral approach and engaging with other bodies, such as Natural Resources Wales, OFWAT and the National Grid, which have an infrastructure remit. The Welsh Government will retain responsibility for policy and making investment decisions.

10. The Cabinet Secretary told the Committee:

“I wish to take a pragmatic approach to this matter, but the overall objectives of establishing an infrastructure commission for Wales are to depoliticise some of the major decisions that need to be made, to bring in expert and technical advice on an independent basis to advise Ministers on key infrastructure for the long term, to ensure that we have infrastructure decisions made and advice provided on in making those decisions that can overcome some of the challenges of the electoral cycle—again, to avoid politicising some key infrastructure decisions—and also to accelerate the process of delivery of key infrastructure projects.”³

11. The Welsh Government has proposed that the NICfW makes regular reports to the Welsh Government and that these take a cross-sectoral approach set within the context of realistic forecasts of the level of available capital investment. It should also publish an annual report on its work.

12. The Welsh Government’s **proposals for the NICfW** outline its potential remit. This includes all sectors of economic and environmental infrastructure including energy, transport, water and sewerage, drainage solutions, waste, digital communications and flood and coastal erosion management. The Commission’s remit would not extend to social infrastructure⁴ as Welsh Government contends there are already well established arrangements in place to deliver long-term infrastructure that should remain the responsibility of the relevant planning and service authorities. However, the NICfW will provide advice on the interaction between economic, environmental and social infrastructure.

13. Some environmental organisations have also called for green infrastructure⁵ to be explicitly part of the remit.

14. **In plenary on 18 October**, and again in Committee on 7 December 2016, the Cabinet Secretary for Economy and Infrastructure indicated that he would be open to considering arguments in this area, and that the remit would be reviewed ahead of the next Assembly election.

² See Annex C: Glossary

³ Para 5 EIS Committee transcript 7 December 2016

⁴ See Annex C: Glossary

⁵ See Annex C: Glossary

15. In the evidence session with regional bodies, the Committee heard the need for a holistic approach. Iwan Prys-Jones, Programme Manager for the North Wales Economic Ambition Board, said:

“Economic growth depends as much on housing and land for employment and the quality-of life aspects as it does on a road scheme or a new piece of drainage infrastructure. So, the plan has to be holistic.”⁶

16. The construction sector supported a wider remit. The **Home Builders Federation** call for housing to be included, arguing a strategic view should be taken in areas such as where housing growth is proposed; where there is the greatest need for housing; and how current infrastructure imposes constraints on the delivery of housing. On strategic working, ACE Wales and the Home Builders Federation cited the need to look differently at major new housing projects as something that the Commission should be able to consider from a Wales-wide viewpoint in addition to the viewpoints taken by local authorities.

17. The Civil Engineering Contractors Association Wales (CECA) note that the integration of social infrastructure with transport is vital given the interdependencies and the need for connectivity between places of working and living. Ed Evans, Director of CECA Wales, said:

“I think we need to see infrastructure in its entirety, and it does encompass economic, social and environmental considerations. We need to tap in to the ambitions across the whole of Wales. I think if we exclude a bit of it—and I think there is a suggestion at the moment to exclude, maybe, the social element of it—I’m not quite sure how that ties in with the well-being of future generations Act, which I think has got to underpin the work of this commission.

“But if you think of social infrastructure in terms of housing, for instance, that has to be seen in the context of transport, connectedness, integration—it’s an important driver of some of the decision making. So, maybe at a strategic level, that should be in there. Operationally, I think that’s a different discussion to be had.”⁷

18. Looking at other infrastructure bodies there are a variety of models, some specifically focus on economic infrastructure, whereas some also cover social infrastructure.

19. **The UK National Infrastructure Commission’s (NIC) remit** covers economic infrastructure, with a similar remit to that proposed for the NICfW. It also looks at the potential impact of infrastructure decisions on housing supply. **The reasons given by the UK Government** for keeping to this remit were set out in its response to the consultation on the governance, structure and operation of the UK NIC:

“The government does not envisage extending the scope of the commission’s remit beyond those areas of economic infrastructure outlined in the consultation document, or setting any additional objectives. The government considers that the commission’s core remit to examine economic infrastructure

⁶ Para 68, 1 December 2016

⁷ Para 28, 17 November 2016

is already far-reaching, and that adding further obligations or objectives in this area would lessen its ability to fulfil its core function.”

20. Infrastructure Australia, the federal body, also covers economic infrastructure, looking at transport, water, energy and telecommunications. These sectors were **described in the legislation establishing Infrastructure Australia** as ones where “investment or further investment will materially improve productivity”. However, the written evidence they submitted to the Committee notes that their remit does not preclude them from looking at social infrastructure, and in fact the most recent statement of expectations issued to them by the Australian Government outlines a role in social infrastructure in the future.

21. A number of Australian states have infrastructure bodies with a wider remit than that proposed for the NICfW. Infrastructure NSW (New South Wales) includes both economic and social infrastructure **in its remit**, as do **Building Queensland** and **Infrastructure Victoria**. In their written evidence Building Queensland, the infrastructure advisory body to the Queensland state government, say that as the Queensland State Government delivers economic and social infrastructure it is consistent that they provide advice on the whole of its remit.

22. The **New Zealand National Infrastructure Unit** also has a wider remit. The primary focus is on the performance of the stock of physical assets that underpin the functioning of the economy, specifically network and utility systems such as transport, water, communications and energy as well as the quality of investment in, and long-run management of, key social infrastructure such as schools, hospitals and prisons. **Infrastructure Canada** also considers economic and social infrastructure, including cultural and recreational infrastructure.

23. While the Committee notes that international comparisons need to be considered in the Welsh context, the Australian experience – where state level bodies have a wider remit than the Federal body – suggests that Wales’ Commission need not be limited to the remit of the UK NIC. The benefits Wales enjoys from its smaller size and population, should mean that a wider remit does not become too unwieldy.

24. During the stakeholder session on 17 November 2016, a number of issues were raised by respondents relating to inclusion of social infrastructure. Those supportive of inclusion highlighted the difficulty of separating social infrastructure from other infrastructure, for example investment in retrofitting energy efficiency measures into homes. The need for joined-up delivery of economic, environmental and social infrastructure was also highlighted as a reason for a broader remit. However, it was also questioned how much influence the Commission would be able to have on social infrastructure decisions given the roles of public sector bodies and the LDP process.

Conclusion 1. The proposed distinction between economic and environmental infrastructure and elements of social infrastructure seems somewhat arbitrary, and difficult to define at times. However, limiting the initial scope and complexity of the NICfW’s work has the benefit of making it more manageable at the outset. The committee is not persuaded at this stage that the remit of NICfW should include all elements of social infrastructure, however, the case for including the supply of land for strategically significant housing developments and related infrastructure is compelling.

Recommendation 1. The remit of the Commission should be extended to include the supply of land for strategically significant housing developments and related supporting infrastructure alongside the economic and environmental infrastructure.

Skills planning

25. The importance of effective skills planning to the success of infrastructure delivery was highlighted by representatives of the construction and engineering sector. Mark Bodger, Director of Strategic Partnerships for CITB Cymru Wales told us:

“I think, obviously, for us skills are an absolutely crucial part of this. To be able to deliver the projects that we’re talking about, to have those skills is essential. And to maximise the number of people who could be trained and benefit as a result of that, with the economic impact that that’ll have and the social impact that that’ll have by raising the aspirations, so to see people getting involved in the construction sector and the built environment sector more widely, seeing the range of opportunities that there are, I think that will impact massively as far as the social impact that this has, and then we’ll be able to impact some of the other policy agendas that we’ve got in Wales around poverty and other things.”⁸

26. Neil Sadler, Chairman of the Association for Consultancy and Engineering Cymru Wales argued that an investment in infrastructure skills would also improve Wales’ business export potential:

“If this vision looks far enough ahead, we’re not only improving our own infrastructure, we’re also upskilling our workforce to be able to sell our skills all around the world. There’s a big spin-off from that with a very big social benefit, to my mind.”⁹

27. In Wales there are currently three regional skills partnerships which bring together a range of relevant bodies to coordinate and plan for skills development. Although there is no formal structure to coordinate their work at a national level.

28. Both CECA Wales and CITB Cymru stated that construction sector skills should be part of the Commission’s remit, and that it should produce a national infrastructure plan for skills to forecast requirements and avoid gaps in demand.

29. In his evidence the Cabinet Secretary said he felt the existing regional skills structures were able to deliver the planning needed, and should be able to respond to the long term decision making led by the advice of the NICfW and the decisions of Welsh Ministers. The Cabinet Secretary told us:

“I wouldn’t envisage that form of skills delivery, certainly from the outset, given that we already have well-established regional skills delivery partnerships that already incorporate, basically, all of the interests and all of the delivery partners already. So, again, to uproot that particular model that we have right at this moment in time I don’t think would be in the interests of either the commission or skills training providers or the partners that form the regional skills partnerships.”¹⁰

⁸ Para 55 EIS Committee Transcript 17 November 2016

⁹ Para 56 EIS Committee Transcript 17 November 2016

¹⁰ Para 56 EIS Committee transcript 7 December 2016

“They [regional skills partnerships] should take account of the decisions that Ministers are taking and, therefore, as the decisions that Ministers take will be on the basis of evidence and recommendations from the commission, I would therefore expect regional skills partnerships to take account of that.”¹¹

30. Infrastructure investment also has the potential to help create well-paid jobs that benefit people and communities – particularly those with fewer opportunities. In Plenary on 18 October 2016, **the Cabinet Secretary for Economy and Infrastructure noted that:**

“It is essential that we use every lever at our disposal to ensure that people who have not been able to access opportunities for well-paid work are given opportunities through investment in infrastructure... I think that’s why as well, alongside the development of the commission, it’s going to be important that we gain an evidence base from the Better Jobs, Closer to Home pilot to inform how we’re going to be ensuring that major infrastructure projects benefit communities and people that perhaps in the past have not benefitted from major infrastructure projects.”¹²

31. CITB Cymru considered that skills planning is an essential part of an infrastructure plan, with certainty of investment in projects leading to certainty of investment in skills. CECA Wales highlighted that, given that the UK Government has developed an infrastructure skills plan for England, Wales should do this to avoid workforce movement to England.

Conclusion 2. While the Committee accepts there is a need to join up the work of the three regional skills partnerships, it is not convinced that the NICfW is the best body to achieve this. That responsibility should remain with Welsh Government.

Fiscal remit

32. The UK NIC has a fiscal remit¹³ set at 1-1.2% of GDP in each year between 2020 and 2050. This sets out what the UK Government expects to spend on economic infrastructure, expressed as a % of UK economic output (Gross Domestic Product). Based on **the UK GDP figure** of £1.8 trillion in 2015, this would have amounted to between £18 billion to £22 billion in 2015. This acts as an effective limit to the scale of what the NIC can recommend, as it has a clear idea of what the UK Government thinks would be affordable.

33. There are practical issues to resolve in setting a fiscal remit for NICfW due to alternative sources of funding, and the devolved/non-devolved nature of infrastructure in Wales (for example rail infrastructure is largely non-devolved at present). Nonetheless, the Committee believes it is vital for the credibility of the Commission and its recommendations, that it is informed on the amount of overall money available from Welsh Government to invest.

34. The Welsh Government’s Deputy Director of Transport Policy, Planning and Partnerships Rhodri Griffiths told the Committee:

¹¹ Para 61 EIS Committee transcript 7 December 2016

¹² INSERT LINK Para xx RoP 18 October 2016

¹³ See Annex C: Glossary

“We’ve had a lot of discussion about how we might do the fiscal limit, and there’s been a lot of discussion about whether that should be a hard fiscal limit or whether it should be a softer fiscal limit as the Australians operate. The UK Government commission has a hard fiscal limit enshrined within its enabling Act of about 1 to 1.5 per cent. That doesn’t, however, recognise, if you pulled that into Wales, the devolved competencies that we have. We don’t have any competence in terms of specifying funding for the rail infrastructure, so we were looking at a model that provides guidance from the Welsh treasury to the commission on the funding envelope that it has. But that’s clearly a gross public expenditure funding envelope that we provide. The Welsh Government isn’t responsible for all infrastructure within Wales; there’s a private element of that, and we would expect the commission to look at the barriers and opportunities in driving that public funding and enabling that funding then to come into Wales, as well as just looking at the fiscal envelope that the Welsh treasury would provide. So, they might consider things like policy levers, as well as a funding envelope.”¹⁴

35. While we do not at this stage know the full remit of the NICfW, it is impossible to estimate with any accuracy what might be an appropriate budget. However, we would anticipate it being closer to the UK NIC (around £5m a year) than the Scottish Future Trust (around £10m a year).

Recommendation 2. The annual remit letter to the NICfW should include an indication of the scale of funding the Welsh Government expects to have available for infrastructure spending over the longest practical timescale.

Funding Finance

36. The Welsh Government had been considering whether the Commission should be able to borrow to finance additional infrastructure investment. Proposals for the Commission do not include the ability to borrow, given concerns raised around whether borrowing would be included in the public sector balance sheet. The Cabinet Secretary stated in Plenary on 18 October that:

“If I can just review some of the considerations that we’ve been giving to raising additional funding, we do share the aim of raising additional moneys for public infrastructure investment by developing models that retain most of the attractive features of the non-profit distributing model, but which reflect the current classification regime... we have engaged legal and financial advisers to assist with developing a model that allows for the public sector to capture some of the returns to equity, which, of course, the Scots have been particularly successful with through Hub,¹⁵ and which we are also proposing to do...the Member also raised points about borrowing and why we will not be incorporating within the commission’s remit the ability to be able to borrow. Now, this is largely an issue that’s come to the fore of late. It’s a recent development, but it concerns whether or not borrowing would sit on or off balance sheet. The ONS considers that not-for-profit models cannot apply a

¹⁴ Para 18, EIS Committee Transcript, 7 December 2016

¹⁵ See Annex C, Glossary

profit cap and sit off balance sheet. We know that because there was recently the rejection of the Scottish Government's application of the model applied to the Aberdeen Western bypass capital project."¹⁶

37. The Scottish Futures Trust has provided written evidence to the Committee around the funding of infrastructure projects. They highlight their Hub programme, and its potential relevance to the work of the Commission. In this programme a private sector partner is procured by a public authority to design, build, finance and maintain assets including schools, health centres, roads, colleges and hospitals as stand-alone non-profit distributing projects. The partner raises the finance and delivers the asset. The Scottish Futures Trust expect this approach to be classed as private sector investment, meaning any borrowing would not appear on the public sector balance sheet. They consider that this type of structure, with a partnership established through procurement, the majority of which is private, but with a minority public shareholding may be relevant to the work of the Commission. In developing any scheme, they highlight the need to liaise with the ONS before taking projects forward.

38. CECA Wales' written evidence notes that consideration should be given to extending the Commission's remit to investment functions, either directly, on a commissioning basis, or through formal partnership with others such as the Development Bank. On 17 November, CECA Wales suggested that if the Commission was restricted to publicly-sourced funds it would be "missing a trick" as this could constrain its work programme. They asserted that the Commission could take a strategic look at finance, and consider developing a facility that brings in finance, as done by the National Development Finance Agency in Ireland. However, they and other witnesses felt that any progress in this area should be through a phased approach. A further issue that has been **explored recently in Plenary** is whether the NICfW could include the functions of an infrastructure bank within its remit, **as is being done in Canada**.

39. The **Welsh Local Government Association** has suggested considering a range of options for financing infrastructure investment, which could potentially involve local government working with the Commission. They have put forward the idea that local government and the Welsh Government could work together to create a body similar to the Scottish Futures Trust as part of the Commission's role. This would allow local government to have an active role in steering national investment plans, and could formalise links between national planning strategies, regional level plans, Local Development Plans and the resourcing of infrastructure delivery. However, they also cite the potential for the body to sit alongside the work of the Commission to include wider social investment, and note that the development of a centralised infrastructure delivery function would need to be considered carefully given that not all national delivery functions have worked successfully. Other models such as a local government investment planning service or using external support to deliver local government infrastructure planning would also need to be considered.

Conclusion 3. The funding of infrastructure investments recommended by the NICfW will be a key challenge in the coming decades. This work requires specialist skills. The Committee believes this work – and how best to go about it – should be taken forward by a dedicated team with expertise in this area.

¹⁶ RoP National Assembly for Wales 18 October 2016

Recommendation 3. There is a need for a dedicated team of people to pay close attention to how private funding is leveraged in to infrastructure development. The Welsh Government should consider whether that body is better placed within Finance Wales/Development Bank of Wales or the National Infrastructure Commission for Wales, and how it should collaborate with related work taking place in Welsh local government.

03. Governance and independence

A statutory or non-statutory Commission

40. The legal status of the NICfW has been a key area of debate during this inquiry.

41. The Welsh Government’s **proposals for the NICfW** state that it will initially be a non-statutory body as there is not sufficient evidence at this stage to establish a statutory Commission. However, **in Plenary on 18 October**, the Cabinet Secretary for Economy and Infrastructure stated:

“In terms of what’s happened at a UK Government level, I recognise that it was something of a surprise that the UK Government did not proceed with making their commission statutory. We have asked for detailed reasoning in this regard, because we had been developing our model on the basis that they were going to be making theirs statutory, and therefore the natural next step based on evidence gathered in the years to come would be that we could also then transform ours into a statutory body. I’ve pledged to ensure that, by the end of this Assembly, there will be a review of the remit, efficacy and operations of the national infrastructure commission for Wales, so that we can fully assess whether it should be statutory. And then, if so, it will enable us to propose legislation when possible.”¹⁷

42. The UK Commission, as initially proposed, was to have been a statutory body. However, **in October 2016, the Chancellor of the Exchequer announced** that the UK NIC will be an executive agency of the UK Government, and has decided that its independence will be secured by a **charter**.

43. The Committee heard from the Chief Executive of the UK NIC, who set out a balanced view of the UK Government’s approach, **noting that:**

“Ultimately, if the establishment of the commission isn’t taken forward through statute, then the commission can be disestablished without statute. I think there is a perception issue around that, which some of our stakeholders have picked up on. Actually, in terms of the independent operation of the commission, I think that we have ended up in a place where that’s quite well safeguarded...So, effectively, the charter is providing exactly the same framework of independence that the legislation was intending to provide to us. And if there’s a downside in terms of loss of permanence, I think there’s an upside in the fact that we’ve got—without people having to go through the process of taking the Bill through Parliament—there’s a certainty and a speed and a pace at which we can get that in place, which is much quicker and much further than would have been the case if the Bill had to work its way through Parliament over the course of six months”¹⁸

44. There has been criticism of the UK Government’s decision. **The leaders of the CBI, the British Chambers of Commerce, London First and the Infrastructure Forum Advisory Council**

¹⁷ RoP 18 October 2016

¹⁸ Para 180-182 EIS Committee transcript 1 December 2016

wrote an open letter to the Chancellor highlighting the need for a truly independent Commission and called for the UK Government to reconsider and introduce legislation to make the UK Commission statutory. In addition, **Lord Kinnock said the UK Government** had “wrecked” the UK Commission by not making it statutory, and that it would not achieve its potential.

45. Ed Evans from CECA Wales supported a phased approach towards creating a statutory body, commenting that:

“I think the whole issue about statutory, non-statutory and part of Government or arm’s length, or whatever you want to call it, I think they’re quite critical things, because if it is part of Government, I really don’t think that we’ll get what we need from this. I mean that not as an industry, but as a nation, really.”¹⁹

46. The Committee also received international evidence from a number of Australian infrastructure advisory bodies on their experiences as statutory bodies. For example **Infrastructure Victoria** argue that being established by legislation, with specific provisions relating to independence, has been important in their acceptance as an authoritative voice on infrastructure matters.

47. **Infrastructure Australia** also told us that the legislation establishing it was strengthened in 2014 to give it new powers. The purpose of the legislation was to strengthen the role of Infrastructure Australia, as an independent, transparent and expert advisory body through a change in its governance structure and through better clarification of its functions. They state that independent governance, clarity of purpose and a strategic role are crucial to their work. This independence has allowed the organisation to operate more effectively and independently.

48. Both organisations consider that the reasons for setting up an independent body to advise on infrastructure applies not just to their particular circumstances, but across countries. Infrastructure Victoria suggest that it provides an opportunity for necessary but difficult infrastructure projects to be the subject of public discussion without politicians having to initially lead this. They consider that this provides evidence-based consideration, and that independence is likely to increase community confidence in processes and outcomes.

49. The Cabinet Secretary for Economy and Infrastructure told us in oral evidence that establishing the Commission could be done more quickly if it is established on a non-statutory basis. The crucial factor in his decision will be to what extent creating a statutory body adds value to the NICfW. He noted that there is a need to understand the barriers to delivering independence, and that he is also in ongoing discussions with the UK NIC to establish the reasons why the UK Government decided not to create a statutory Commission.

50. The Committee supports the need to get the NICfW up and running as quickly as possible, given the need to speed up delivery and the historic levels of underinvestment in Welsh infrastructure. Establishing the NICfW in a way that does not require legislation would be cost-effective. Delaying legislation might also allow the dust to settle around the regional structures emerging from city/growth deals and greater regional collaboration between local authorities. The

¹⁹ Para 171 EIS Committee transcript, 17 November 2016

Committee is mindful that the Cabinet Secretary has already committed to a review of the status of the NICfW ahead of the next Assembly election.

51. Nonetheless, the NICfW needs to have clout and credibility, and must be, and be seen to be, an independent body. The Committee notes that, while the UK Commission’s charter may provide independence, one downside is the perceived lack of permanence of a non-statutory Commission. The infrastructure advisory bodies in Australia attach great importance to their independent status, and their view is that the benefits transcend state and national boundaries.

52. The Committee is therefore of the view that, while a transitional body should be set up so that the Commission is operating by the Welsh Government’s target date of summer 2017, there should be a clear presumption that it becomes a statutory body in due course.

Conclusion 4. While the Committee believes that ultimately the independence and credibility of the Commission will best be secured by it being placed on a statutory footing, there is no need to delay setting up the body waiting for legislation.

Recommendation 4. The Commission should be established as a non-statutory body, but with the clear presumption that legislation will follow to move the Commission to become a statutory, independent body. Welsh Government should assess how best to trigger the move to a statutory body.

Location of the Commission

53. The Welsh Government proposes that the Commission is supported by a dedicated secretariat of its staff based at a Welsh Government office.

54. The Committee **heard from the UK Commission** that not being located in the same offices as HM Treasury had improved perceptions of their independence.

“For the first few months of our existence, we were based inside the Treasury building because we were—and, formally, still are—a part of the Treasury until the move to an executive agency happens. I think it was very difficult, when our stakeholders came in to speak to us and when we were out presenting our work and talking to the communities that we needed to deal with, to make the case that we were genuinely an independent body, when we were sitting inside the same four walls as the people who were meant to be scrutinising and responding to us. Getting out of the Treasury building was crucial.”²⁰

55. This view was supported by a number of stakeholders in the informal evidence gathering session the Committee held, although others felt that the Commission being well-resourced and securing value for money was more important than where it was based.

56. The **Cabinet Secretary plans** to locate the headquarters of the Development Bank for Wales in north-east Wales, and Transport for Wales in the Valleys. This approach to decentralisation should also be applied to the Commission.

Conclusion 5. The Committee is persuaded by the UK Commission’s view that not being located in the same building as the government you are providing with independent

²⁰ Para 181 EIS Committee transcript, 1 December 2016

advice is a helpful public indicator of independence. However, in determining the location of the Commission the Committee is mindful of the need to keep costs down, and can see benefits to the Commission sharing accommodation with another public body. Travel costs should also be considered as part of the value for money judgement about location.

Recommendation 5. To enhance its independence, the Commission should be based outside Cardiff, and should not share a building with Welsh Government departments. However, to minimise costs, it should share accommodation with another public body in a value for money location.

Accountability of the Commission

57. Just as the NICfW needs to be independent of government influence, it needs to be accountable to the Welsh Government, the National Assembly for Wales and Wales more widely for its work.

58. CITB Wales **provided evidence** asking that clear governance arrangements are put in place to allow for the Commission to report directly to a relevant Assembly Committee. The EIS Committee scrutinises Finance Wales' work annually **following a recommendation from the Finance Committee**, and the relevant Assembly Committee should be able to scrutinise the NICfW in the same way. The Commission's annual report could form the basis of this scrutiny.

59. During the stakeholder event held in November, several stakeholders suggested that the Assembly should be able to take a view on appointments to the Commission through confirmation hearings. This is particularly relevant to the Chair of the Commission, who should be subject to a pre-appointment hearing by a relevant Assembly Committee. This would be an opportunity for Wales to build on the work of House of Commons Select Committees in scrutinising a wide range of senior public appointments. These include prospective Chairs of a wide range of bodies such as the BBC Trust, Office for Budget Responsibility, the former Infrastructure Planning Commission and the Social Mobility and Child Poverty Commission.

Recommendation 6. The Chair of the Commission should be subject to a pre-appointment hearing by a relevant Assembly Committee. The Commission, and its work, should be subject to scrutiny by a relevant Assembly Committee on an annual basis, following the publication of its annual report.

04. How the NICfW operates and works with the Welsh Government

Reporting

60. The UK NIC provides the UK Government with impartial, expert advice on major long-term infrastructure challenges. It will do this by assessing national infrastructure needs once every parliament; carrying out in-depth studies into the UK's most pressing infrastructure challenges and making recommendations to the government; monitoring the government's progress in delivering infrastructure projects and programmes recommended by the UK Commission. It will also publish an annual monitoring report.

61. The UK Government will issue a public remit letter to the NIC, including a binding fiscal remit to ensure that recommendations will be affordable. Commitments made by the UK Government include responding to all reports within a year of publication, and the vast majority within 6 months; giving reasons where it disagrees with the UK NIC's recommendations including presenting alternative proposals where appropriate; laying Commission reports and UK Government responses before parliament; and sharing relevant information with the NIC and responding to reasonable requests for new analysis to support the NIC's work in a timely manner, including information not in the public domain.

62. The Welsh Government's proposals for NICfW are that it will provide independent and expert technical and strategic advice to the Welsh Government on Wales' long-term infrastructure needs over a 5-30 year period. It is proposed that it will make regular reports to the Welsh Government, taking a cross-sectoral approach set within the context of realistic forecasts of the level of available capital investment, and will also publish an annual report on its work. It is envisaged that NICfW will have the capacity to commission targeted research where this is necessary and not already available or planned by other bodies.

63. The Committee recognises the need for an annual report of activity as part of its transparency and openness. (see Recommendation 7)

64. The Committee believes it is crucial that the work of the NICfW is divorced from the electoral cycle if it is to look to the long term and de-politicise decision-making. Reporting at a fixed point in the Assembly's electoral cycle might create a temptation to tailor recommendations for a particular Minister or Government – whether in post, or likely to take up post. The Committee wants to avoid this. For this reason, the Committee reject the idea of producing one report per Assembly. The cycle of reporting should be independent of political cycles either in Wales or the UK. For this reason the Committee is proposing a three year reporting cycle.

65. The reputation of NICfW will be defined in large part by the way in which Welsh Government responds to its work. CITB Cymru stated that it was important to have a transparent process through which recommendations are developed by the Commission, and that if the Welsh Government does not accept the Commission's recommendations then it should publish the reasons, a suggestion also supported by CECA Wales in their written evidence.

“If the Commission is to have any value and credibility the outputs of its work (eg recommendations) should be implemented in all cases unless specific consideration is given by Welsh Government Ministers to disregard or amend

the proposals. In any instance where the work of the Commission is not implemented a formal report should be presented outlining the reasons why proposals are not progressed;”²¹

66. The North Wales Economic Ambition Board said that there should be a requirement for the Welsh Government to respond to the NICfW’s recommendations within a specified time period. They also felt that the Commission should be able to monitor the progress of infrastructure projects that it has proposed.

67. The WLGA also notes that it needs to be clear whether the Commission’s role is informing strategic infrastructure at a technical level, a democratic level or both. However, they consider that there is a need for a national overview of infrastructure development although the work of the Commission will need to take into account the shift towards more regional working by local authorities over the next few years.

68. The Committee anticipates NICfW may also produce stand-alone pieces of work looking at specific projects. These might focus on a specific area of interest and could be requested by the Welsh Government through the remit letter, or instigated by the Commission. Reports should be published and the Welsh Government should respond fully to each recommendation within six months. Where that period would fall within a pre-election period, a short delay would be permitted.

69. The Cabinet Secretary spoke about the need for transparency in the Welsh Government’s dealings with NICfW, and said he would expect to have good reasons for not accepting a recommendation. He said:

“This is again where, if we look at the UK commission’s work and the response from UK Ministers—I think we can learn a good lesson here. The recommendations and the advice that will be provided by the commission would be provided on a regular basis. Ministers would then have to respond in a transparent way, so that the National Assembly would then be able to gauge the degree to which Ministers are then taking into account the advice. I would expect that, if Ministers were to deviate away from that advice, they would have to do so with compelling reasons.”²²

Recommendation 7. The NICfW should produce a regular “State of the Nation” report in a timescale disconnected from the political timetable. The Committee suggests every three years. The annual report should cover governance issues, and what the Committee has done over the previous 12 months, and its workplan for the coming 12 months. The Welsh Government should respond to recommendations – whether in the triennial report or stand-alone pieces of work - within 6 months.

Research capacity

70. Witnesses have set out a range of views on how the Commission should develop its evidence base, the construction and engineering sectors agreed with the Welsh Government’s proposals that the Commission should be able to commission external research where necessary and not already available. The WLGA **has recently published** its response to the Welsh Government’s consultation on

²¹ Written evidence

²² Para 14 EIS Committee transcript 7 December 2016

the Commission. The WLGA want the Commission to work with other public bodies on research where they are the lead infrastructure organisation, and to be able to share its advice, analysis and recommendations with local government where they are a strategic lead on infrastructure.

71. Darren Mepham, Chief Executive of Bridgend County Borough Council, said any such body producing new evidence should share its information with relevant partners.

“If the commission’s producing national evidence and doing research and so on, it’d be vital that not just local authorities, but the regional authorities, have access to that and inform investment decisions. We’ve got a regional transport authority for the 10 councils in shadow form; we expect to have a regional strategic housing function and a regional strategic land use planning function across the 10 authorities in the next few months or years. So, for those bodies, it would be very helpful to be informed by any national commission, rather than working in isolation from it.”²³

72. He also said information sharing should work in the other direction.

73. The Cabinet Secretary highlighted sharing research between the UK NIC and NICfW as “absolutely essential”. He said:

“I think that could be one of the great benefits of setting up a national infrastructure commission for Wales. The potential to share research opportunities and learn from best practice is immense.”²⁴

74. It seems clear that the Commission has a function as a pro-active co-ordinator of existing research relating to infrastructure, for example, commissioned by regional bodies, local authorities, or Welsh Government, in addition to conducting its own work.

75. Authoritative expert research does not come cheaply, and the funding of the NICfW will need to reflect this.

Conclusion 6. The Committee agrees that an open and collaborative approach to evidence gathering would be beneficial. This works both ways – the Committee would expect the NICfW to share its evidence with other public bodies, and that they would provide the NICfW with all appropriate research in order to avoid duplication. This way of working is in line with the collaborative approach required by the Wellbeing of Future Generations Act (see Chapter 6).

²³ Para 176 EIS Committee transcript, 7 December 2016

²⁴ Para 104 EIS Committee Transcript 7 December 2016

05. Working with local authorities/City Regions

Working with local and regional bodies

76. The Commission’s ability to work with local authorities and City Regions to develop a good working relationship and understanding of its role will be crucial to its success. This is a fundamental challenge for the NICfW in setting out its role. There is a suspicion about the need and role of the NICfW, particularly among local government practitioners.

77. Swansea Council leader Cllr Rob Stewart questioned what the NICfW would add to the existing landscape.

“You’ve got Welsh Government, you’ve got the city regions, you’ve got the local authorities, you’ve got the potential for collaboration between the local authorities at an economic development level in future. What value-add will the commission bring and in what space will it work? That’s the clarity I’m looking for. Because, if you look at the Cardiff capital region deal and the Swansea bay city region deal, large parts of that will be infrastructure. Would the commission get itself involved in those decisions, would it affect how city regions deliver, would it then connect up with local authorities, and on what basis? I think, as was said, it’s all very well having advice—there’s plenty of advice around—but what value will it add, what can it do that we can’t currently do? And I think that those are the questions that I’m concerned about at the moment because I’m not clear, depending on the make-up, depending on the remit, how this would function in amongst all of the other structures that we’ve got.”²⁵

78. Ann Beynon voiced the concern of business leaders that structures should simplify rather than complicate the business environment in Wales.

“Having spoken to the business community, and I have had many discussions with them in the southeast especially, I think there’s a very strong plea for simplification in relation to economic development in Wales—it’s very difficult; it’s not an easy thing to deal with. So, if it’s easier to deal with it in Newcastle, you’ll go to Newcastle. Because we do have strong proposals here, but it’s complicated and we need to have fewer bodies in general and simplify matters so that, if you have someone who wants to invest in Wales, they know where to go, and they can get that expertise.”²⁶

79. Cabinet Secretary Ken Skates acknowledged this point in his evidence to the Committee. He said:

“I’m very conscious of the need to consolidate and simplify the architecture—the ecosystem—that we have at the moment concerning advisory bodies, and I am aware of concerns that this may be another advisory body to add to the 48, I

²⁵ Para 18 EIS Committee transcript, 1 December 2016

²⁶ Para 19 EIS Committee transcript, 1 December 2016

think it is, that we have at the moment. I believe that this could actually complement a reduction in the number of bodies that we have at the moment because this has to operate (a) on a pan-Wales basis, but taking into account regional and local factors. It should also be cross-cutting and look at all forms of economic and environmental infrastructure. But it should also identify where there are interdependencies with social infrastructure and examine any barriers to delivery of infrastructure projects.”²⁷

80. In the UK Commission’s consultation on its National Infrastructure Assessment (NIA), a key issue raised by some respondents relating to its local and regional work was the need to be cautious in making recommendations on specific projects given the need to respect local decision-making and priorities. It was considered that the potential impact of devolution on how infrastructure is planned, delivered and managed needed to be acknowledged. **The UK Commission responded:**

“On local growth, the Commission recognises the importance of place and will continue to look at its work through a ‘place lens’. It also recognises that there are local representative bodies leading programmes of work in this area and will seek to work with these bodies as the NIA is developed.

“In terms of the implications of NIA recommendations on local issues, those recommendations related to specific projects will focus on projects of strategic national importance, rather than those of purely local importance. The Commission agrees that it will be important to understand and take account of local plans that are relevant to nationally strategic infrastructure in considering such projects, and to work with relevant local bodies in understanding the evidence base. However, in keeping with its independence, the Commission will ultimately reach its own conclusions and make recommendations as appropriate. That may involve making recommendations to local decision making bodies, including local and combined authorities, in which case it will be for those bodies to decide how to respond.”²⁸

81. The North Wales Economic Ambition Board highlights the importance of the Commission being aware of regional infrastructure plans at an early stage to avoid the potential for overlap or conflict with schemes it looks at on an overarching basis. They suggest that a solution to this is that regional bodies feed into the work of the Commission to raise awareness of schemes and how they may impact future work that the Commission is doing.

82. CECA Wales suggest that the Commission should be able follow the example of Infrastructure Australia and examine regional infrastructure proposals to confirm alignment with a Wales-wide approach to infrastructure. CITB Cymru suggest that public bodies such as local authorities could be able to commission research and advice from the Commission to inform their decision making.

83. On City/Growth Deals, CITB Cymru state that it is crucial that the Commission’s infrastructure pipeline includes analysis of projects funded by these deals. The North Wales Economic Ambition Board consider that it will be important for both the Commission and those governing the

²⁷ Para 10 EIS Committee transcript, 7 December 2016

²⁸ Para 60 **NIA Consultation Response**, National Infrastructure Commission

City/Growth Deals to interact as the work of both organisations can benefit from the input of the other.

84. The Committee considered how best to ensure the NICfW has a clear understanding of regional plans and priorities. Having regional representatives on the Board would solve this problem, but at the cost of limiting the posts available to appoint experts – which is a greater priority. A better solution would be to ensure each of the regions has a means of feeding in to the board of the NICfW through some form of regional forum. Alternatively, it may be that a clear instruction in the remit letter, and the emphasis on collaborative working provided by the Well-being of Future Generations Act are sufficient to secure this awareness.

Conclusion 7. The Committee is clear that the role of the NICfW is to enable working across Local Authority and/or regional boundaries. But as an advisory body, it will use its evidence base and expertise to persuade; it will not have the power to direct elected local authorities.

Recommendation 8. Appointments to the NICfW board should reflect the diverse communities of Wales to ensure an understanding of all parts of Wales. Given the importance of City/Growth Deals, the Board should consider establishing a forum to bring together and consider the work going on in each of the regions of Wales.

Pre-existing agreements

85. The Welsh Government’s proposals state that the NICfW will not look at agreements already made, or about to be made.

86. In its submission to the Welsh Government’s consultation, the WLGA notes that while this is a sound premise, it should not be a barrier to the NICfW if its expert advice could enhance projects already agreed.

“The general premise for the NICfW should presumably be that it is forward looking rather than retrospective. It should presumably not be enabled to consider key decisions retrospectively, or to police decisions.

“However this might need to be clarified. For example, where a decision has already been made to move ahead with a collaborative regional programme it should not prevent expert advice from being offered on the potential to enhance the programme.

“Also decisions would arguably already have been made on the need for every project which makes up the current WIIP, however it would be self-defeating to prevent the NICfW from considering them and providing beneficial national oversight.

“There must be a clear boundary within which the NICfW can operate and where it would be inappropriate for it to intervene based upon the nature of the project, and its commitment status in the development process.”²⁹

²⁹ WLGA submission to the Welsh Government’s Consultation on a National Infrastructure Commission for Wales

87. However, defining this boundary will require further thinking.

Conclusion 8. The Committee strongly endorses the proposal that NICfW should be purely forward looking. However, it is crucial that the NICfW has needs a clear understanding of the baseline it is working from, and where it can and cannot intervene in order to add value. It would be helpful if the initial remit letter set out such parameters, or at the very least, instructed the NICfW to consult on establishing them.

Working with the UK Commission

88. The proposals for the **NICfW** note that there will be areas where the UK Government and Welsh Government’s responsibilities interact, in areas such as cross-border strategic road networks. The Welsh Government is discussing arrangements for working with the UK Government in these areas.

89. In Plenary on 18 October, the Cabinet Secretary for Economy and Infrastructure noted that the appointment of a UK Commission member to the Welsh Commission would be helpful in recognising the cross-border nature of current and future infrastructure. The remit of **NICfW** will also extend to non-devolved infrastructure.

90. Mark Harris, of the Homebuilders Federation, said:

“Just to come back to the first question—‘Why do we need a commission?’—one other thought, and maybe why a commission would work better than Welsh Government, is that a lot of the infrastructure issues are cross-border and wider than just Wales. I’m not suggesting Welsh Government don’t work well with English Government, but we all know examples where they maybe haven’t worked as well as they could have done, from both sides, so maybe a commission would be in a better position to deal with those cross-boundary and wider-than-Wales issues.”³⁰

91. The UK NIC has set out how it will work with the Welsh Government and other devolved administrations. In response to its consultation on the governance, structure and operation of the UK NIC, it states that the remit of the Commission will reflect devolved responsibilities for infrastructure, and that it will have a role in the UK Government’s infrastructure responsibilities in the devolved nations. It also notes that the UK NIC will work with devolved administrations to develop working arrangements where responsibilities interact.

92. However, it was clear from our discussions with Philip Graham, that devolved or cross-border issues had not, as yet, been a high priority for the UK NIC.

93. The Home Builders Federation notes that it is key that arrangements are put in place for cross-border working given that there will be demand for new and upgraded infrastructure to allow economic and housing growth to take place in these areas. The North Wales Economic Ambition Board consider that this should include engagement on non-devolved issues, infrastructure in England that affects Wales, and to develop consultation arrangements for where working arrangements may overlap. CECA Wales suggest that both Commissions should be able to scrutinise and challenge each other’s proposals.

³⁰ Para 24 EIS Committee transcript, 17 November 2016

94. Iwan Prys-Jones, programme manager for the North Wales Economic Ambition Board, noted the importance of infrastructure developments close to the border which can have a major impact on Wales. He said:

“I would say that probably three of the big investment and infrastructure projects that we would want to see in north Wales are actually all in England. We’d want to see improvements to the A5 and the A483; we’d want to see improvements to the A483 and A55 junction, which happens to be in Chester, and Chester station capacity improvements are absolutely essential to running more train services in and out of Wales. So, we can invest every penny we have in investment in Welsh infrastructure, but the reality is that those constraints, which are just over the border, would prevent there being any real value of any of those investment decisions, and that’s why we need to have a cross-border approach.”³¹

95. Given the importance of cross-border, and purely English, infrastructure to Wales, the Committee considers it vital that the Commission is able to ensure that the UK Commission also considers these projects and their importance to Wales.

Conclusion 9. The Committee supports the proposal to invite a member of the NIC to also be a member of NICfW. This is essential, but not sufficient.

96. In order to be heard at UK level, it will be crucial for NICfW to build strong relationships with NIC both at board level and officer level. This will raise the profile of Welsh concerns, particularly in non-devolved areas such as rail infrastructure, where Wales has historically seen underinvestment.

97. There is also much to learn from the Scottish Futures Trust, and the Committee welcomes that the Welsh Government is consulting with them on innovative infrastructure financing.

98. Evidence from Australia suggests it is possible to develop effective relationships between bodies with asymmetric responsibilities. The Australian state infrastructure bodies meet quarterly— a similar arrangement for the emerging infrastructure bodies across the UK would appear logical and beneficial.

Recommendation 9. The Welsh Government should encourage NICfW to establish and develop strong relationships and information sharing with NIC and STF through its initial remit letter. The Committee believes the NICfW will have an important role in considering the implications of cross-border projects, and projects based wholly in England which have a major impact on Wales.

³¹ Para 124 EIS Committee transcript, 1 December 2016

06. Working with other bodies

Future Generations

99. The importance of Future Generations legislation was a key element raised by stakeholders – particularly in the environmental sector.

100. The Cabinet Secretary indicated that this was an area where he was open to persuasion.

“We have not yet reached a decision on whether the future generations commissioner should hold to account the commission, because we’ve not yet determined whether the commission should be added to the list of public bodies. My view at this stage is that because the infrastructure commission will be reporting to Ministers—and Ministers are already duty-bound to deliver against the Act and are on that list—at this stage, it’s my view at the moment that I don’t expect or anticipate the commission to be added to that list, because essentially it’s advisory to Government and, by virtue of Government, then, being on that list, the commission’s work would have to pay due regard to the Act as well.”³²

101. The Committee disagrees. The independence of the NICfW is paramount – so, as such, it should have its own obligations to Future Generations – independent of the Welsh Government.

102. If NICfW is set up on a non-statutory basis, it should operate in all respects, as if it were a public body under the Well-being of Future Generations Act. Enshrining this in law should be part of the move to become a statutory body.

103. There is an underlying tension between the city/growth deals – which are led by the UK Government and emphasise economic growth – and the Welsh Government’s broader approach to developing “a prosperous Wales”, one of the seven goals set out in the Wellbeing of Future Generations Act. Bringing NICfW under the remit of the Act will ensure its considerations take the broadest view.

104. The Future Generations commissioner’s work on future trends will be a key evidence base for the NICfW as it considers Wales’ needs in 20-30 years’ time.

Recommendation 10. The NICfW should be considered a public body under the Well-being of Future Generations Act 2015.

Relationship with environmental regulatory bodies

105. The Welsh Government’s proposals set out that the Commission would engage closely with and consult other bodies that may have an economic and environmental infrastructure remit; for example the National Grid, OFWAT and Natural Resources Wales.

106. The Committee heard from Darren Mepham, Chief Executive of Bridgend County Borough Council, that there is a potential gap in the market for the NICfW to look at environmental infrastructure as this is not considered as part of City Deals which focus more on economic infrastructure. However, Ann Beynon, Interim Chair of the Cardiff Capital Region Board, told us that

³² Para 148 EIS Committee transcript, 7 December 2016

Natural Resources Wales already provides advice on at least a quarter of the Commission's proposed remit.³³

107. Therefore, there is a particular need for the Commission to build a strong working relationship with Natural Resources Wales, to avoid duplication. The Committee supports the Welsh Government's proposal that the NICfW engages closely with other bodies who have an economic and environmental infrastructure remit, such as OFWAT and the National Grid. This will enable the Commission to supplement and add value to the work of these bodies.

Conclusion 10. The Committee supports the Welsh Government's proposals that the NICfW engage with economic and environmental infrastructure bodies, and urges that this is done quickly after it is established to add value to the work of these bodies.

³³ Para 101, EIS Committee transcript, 1 December 2016

Conclusions

Conclusion 1. The proposed distinction between economic and environmental infrastructure and elements of social infrastructure seems somewhat arbitrary, and difficult to define at times. However, limiting the initial scope and complexity of the NICfW’s work has the benefit of making it more manageable at the outset. The committee is not persuaded at this stage that the remit of NICfW should include all elements of social infrastructure, however, the case for including the supply of land for strategically significant housing developments and related infrastructure is compelling.

..... Page 12

Conclusion 2. While the Committee accepts there is a need to join up the work of the three regional skills partnerships, it is not convinced that the NICfW is the best body to achieve this. That responsibility should remain with Welsh Government. Page 14

Conclusion 3. The funding of infrastructure investments recommended by the NICfW will be a key challenge in the coming decades. This work requires specialist skills. The Committee believes this work – and how best to go about it – should be taken forward by a dedicated team with expertise in this area.

..... Page 16

Conclusion 4. While the Committee believes that ultimately the independence and credibility of the Commission will best be secured by it being placed on a statutory footing, there is no need to delay setting up the body waiting for legislation. Page 20

Conclusion 5. The Committee is persuaded by the UK Commission’s view that not being located in the same building as the government you are providing with independent advice is a helpful public indicator of independence. However, in determining the location of the Commission the Committee is mindful of the need to keep costs down, and can see benefits to the Commission sharing accommodation with another public body. Travel costs should also be considered as part of the value for money judgement about location.Page 20

Conclusion 6. The Committee agrees that an open and collaborative approach to evidence gathering would be beneficial. This works both ways – the Committee would expect the NICfW to share its evidence with other public

bodies, and that they would provide the NICfW with all appropriate research in order to avoid duplication. This way of working is in line with the collaborative approach required by the Wellbeing of Future Generations Act (see Chapter 6).
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Conclusion 7. The Committee is clear that the role of the NICfW is to enable working across Local Authority and/or regional boundaries. But as an advisory body, it will use its evidence base and expertise to persuade; it will not have the power to direct elected local authorities. Page 27

Conclusion 8. The Committee strongly endorses the proposal that NICfW should be purely forward looking. However, it is crucial that the NICfW has needs a clear understanding of the baseline it is working from, and where it can and cannot intervene in order to add value. It would be helpful if the initial remit letter set out such parameters, or at the very least, instructed the NICfW to consult on establishing them. Page 28

Conclusion 9. The Committee supports the proposal to invite a member of the NIC to also be a member of NICfW. This is essential, but not sufficient.
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Conclusion 10. The Committee supports the Welsh Government’s proposals that the NICfW engage with economic and environmental infrastructure bodies, and urges that this is done quickly after it is established to add value to the work of these bodies. Page 31

Annex A: Evidence Received

Consultation Responses

The following people and organisations provided written evidence to the Committee between 9 November 2016 and 30 November 2016. All consultation responses can be viewed on the [Committee's website](#).

01 Civil Engineering Contractors Association (CECA Wales Cymru)

02 CITB Cymru Wales

03 Home Builders Federation

04 Building Queensland

05 Infrastructure Victoria

06 Infrastructure Australia

07 Scottish Futures Trust

08 Welsh Government

09 National Energy Action (NEA) – Wales

10 Infrastructure New South Wales

Oral Evidence

The following witnesses provided oral evidence to the Committee. Transcripts of all oral evidence sessions can be viewed on [the Committee's website](#).

Meeting: 17/11/2016 - Economy, Infrastructure and Skills Committee

Construction and Engineering sectors panel - National Infrastructure Commission for Wales

- Neil Sadler, ACE Cymru Wales, Chairman
- Mark Bodger, Director of Strategic Partnerships, CITB Cymru Wales
- Ed Evans, Director, Civil Engineering Contractors Association (CECA) Wales
- Mark Harris, Planning and Policy Advisor Wales, Home Builders Federation

Meeting: 01/12/2016 - Economy, Infrastructure and Skills Committee

Regional perspective - National Infrastructure Commission for Wales

- Ann Beynon, Chair, Cardiff Capital Region Board
- Iwan Prys-Jones, Programme Manager, North Wales Economic Ambition Board
- Cllr Rob Stewart, Leader of the City & County of Swansea, Swansea Bay City Region

UK National Infrastructure Commission - National Infrastructure Commission for Wales (via video-conference)

- Philip Graham, Chief Executive, National Infrastructure Commission (via video-conference)

Meeting: 07/12/2016 - Economy, Infrastructure and Skills Committee

Welsh Government - National Infrastructure Commission for Wales

- Ken Skates, Cabinet Secretary for Economy and Infrastructure
- Simon Jones, Director Transport and ICT Infrastructure
- Rhodri Griffiths, Deputy Director, Transport Policy, Planning and Partnerships

Local Government - National Infrastructure Commission for Wales

- Darren Mephram, Chief Executive Bridgend County Borough Council and lead officer for the Cardiff Capital Region City Deal.

Stakeholder Engagement

The Committee gathered additional views about what the Infrastructure Commission could mean for small businesses, environmental groups and other interested parties.

Stakeholder Event, 17 November 2016

Organisation	Name
Wildlife Trusts Wales	James Byrne
South Wales Chamber of Commerce	Elgan Morgan
Renewables UK	David Clubb
Chwarae Teg	Natasha Davies
Bevan Foundation	Nisreen Mansour
IWA	Shea Jones
Centrica (British Gas)	Nick Speed
Tidal Lagoon	Catrin Jones, Neil Woodall, Ioan Jenkins

Annex B: Note of Stakeholder session on 17 November

Summary of key points from the Economy, Infrastructure and Skills Committee stakeholder event on the National Infrastructure Commission for Wales

Key points relating to establishment of the Commission

Whether the Commission's remit should be focussed on economic and environmental infrastructure or also include social infrastructure

Majority of stakeholders supported social infrastructure being included within the Commission's remit, and that a joined-up approach is needed for infrastructure planning.

It was agreed by many stakeholders that there was a need for all elements of infrastructure to be considered together, for example transport infrastructure is needed to help people get to work, school, hospitals. Additionally, for some types of infrastructure it is difficult to define whether they are social or environmental infrastructure such as retrofitting energy efficiency measures into homes.

The view was expressed that on issues such as housing and planning, a national overview is needed as local authorities don't and won't take a strategic overview of these areas in some instances.

However, some stakeholders questioned how much influence the Commission would be able to have over social infrastructure, given the role of Local Development Plans and that this would impact on role of local authorities.

If social infrastructure is not included in the remit, there is a need for certainty on joined-up delivery between different types of infrastructure.

Whether the Commission should be a statutory or non-statutory body, and how its independence should be achieved

There were mixed views on this, with some respondents wanting the Commission to have a statutory responsibility to advise the Welsh Government and others having no strong opinion on how independence being achieved, while considering that it is an important issue.

Scrutiny of the Commission as a distinct body was also mentioned in this context, with the Assembly highlighted as potentially being able to play a role in appointments to the Commission through pre-appointment hearings, and also through the work of the Commission being scrutinised by the Assembly.

Areas of expertise that should be represented on the Commission

The need for a diverse Commission was raised by all stakeholder panels, with gender-balance and representation from across Wales highlighted as key elements of achieving this.

In terms of specific sectors that were highlighted as having expertise that the Commission would require, business, climate change, communications and public engagement were highlighted.

Key points on how the Commission should operate

How the Commission should build an evidence base and make recommendations, and how the Welsh Government should respond to these

Need for the Commission to think long-term and across sectors to produce its work, and also to engage with communities. The Well-being of Future Generations Act was mentioned as requiring elements such as outreach and public consultation.

Many stakeholders considered that how the Welsh Government responds to the Commission is crucial. A detailed response to recommendations is needed, and should be laid before the Assembly. Rejected recommendations were mentioned as being particularly important, as the Welsh Government will need to justify why they are not being implemented.

The Commission will need to think outside Wales for best practice. Within the UK, the former regional development agencies were mentioned as examples of good practice in delivering on infrastructure and transport issues.

How the Welsh and UK Commissions should work together

Need to secure benefits from having a UK Commission on cross-border road and rail issues and other issues of importance to Wales such as the National Grid.

Working arrangements should be put in place between the two Commissions to share best practice and for cross-border issues.

Key points on sustainable development and the work of the Commission

Importance of sustainable development

Sustainable development should be the core principle of the Commission.

This would need to encompass the definition set out in the Well-being of Future Generations Act, and it was noted that resilience is fundamental to sustainable development.

Application of the Well-being of Future Generations Act to the work of the Commission

Need for a long-term focus to be taken by the Commission, and to consider all well-being goals ranging from prosperity to environmental goals.

The Act could be amended to include the Commission as a public body, and it should report to the Future Generations Commissioner in this regard.

A good relationship with Public Service Boards needed to understand local needs, and provide good public engagement.

Key questions from stakeholders to the Cabinet Secretary for Economy and Infrastructure

A range of questions were suggested by stakeholders, which are summarised below. A number of questions were suggested by more than one panel.

How will the Commission be more than a talking shop, and bring all interested parties together to buy into its role and work?

How will the Commission think long-term, and how binding will its recommendations be on successive governments?

What does the Cabinet Secretary want to achieve from the Commission – economic prosperity or a sustainable Wales?

How will the Commission be organised so that it incorporates all Ministerial priorities, and is there need for the First Minister to have overall oversight?

What will be the terms of office for the Commissioners, and how will the public appointments process deliver the required membership?

Why is social infrastructure not being included in the Commission's remit, and does this create an arbitrary line between the different types of infrastructure?

The Cabinet Secretary has said that the remit for the Commission should not include social infrastructure as there are already established processes for planning this. Do established processes for planning economic infrastructure not also exist in this way?

What level of staffing and budget will the Commission require?

What should the role of the Commission be in facilitating public/private capital funding for infrastructure involvement?

What role will the Commission play in assisting deprived communities, and in providing social mobility and tackling low pay?

What is the risk of there being a delay between the Commission being established and it becoming effective, particularly given that the economic strategy is currently being updated?

How will the Environment Act and Well-being of Future Generations Act be integrated in the work of the Commission, and what role will the Future Generations Commissioner play in its work?

How will the Welsh Commission relate to the UK Commission, other UK infrastructure planning bodies, and regulators for devolved and non-devolved types of infrastructure?

Annex C: Glossary

Economic infrastructure (sometimes known as economic and environmental infrastructure) is described by the National Audit Office as that which keeps the country running. It covers a range of sectors including energy, transport, water and sewage, waste, flood defences and digital communications. This is known as economic and environmental infrastructure in the Welsh Government's proposals for the National Infrastructure Commission for Wales.

Social infrastructure includes assets used for social purposes, and is defined by the Welsh Government as covering areas such as schools, health and housing.

Green infrastructure describes all green and blue spaces in and around towns and cities. Component elements of green infrastructure include parks, private gardens, agricultural fields, hedges, trees, woodland, green roofs, green walls, rivers and ponds. The Royal Town Planning Institute says the term covers all land containing these features, regardless of its ownership, condition or size.

A **fiscal remit** in the context of an infrastructure advisory body refers to making recommendations that fall within the level of infrastructure expenditure that a government proposes to spend over a period. An example of this is the UK National Infrastructure Commission's fiscal remit, under which it must be able to demonstrate that its recommendations for economic infrastructure are consistent with, and set out how they can be accommodated within, gross public investment in economic infrastructure of between 1.0% and 1.2% of GDP in each year between 2020 and 2050.

The **non-profit distributing model of financing infrastructure** was developed and introduced as an alternative to the traditional private finance initiative (PFI) model. It is a method of financing that allows governments to borrow to fund infrastructure expenditure without this counting as governmental borrowing, and therefore appearing on the public sector balance sheet. The Hub model in Scotland is an example of this which has been referenced by the Welsh Government. Under this model, projects are taken forward by companies that are majority owned by the private sector, with a minority public sector shareholding. The model build on the PFI model by allowing the public sector to capture some of the returns from an infrastructure investment project.

An infrastructure bank is set up by a government to facilitate the provision of largely private sector financing for infrastructure projects in a stable, long-term manner. The most recent development of an infrastructure bank has been in Canada, and the development of a UK infrastructure bank has been recommended by the Growth Commission of the London School of Economics.