

# Financial implications of the Infrastructure (Wales) Bill

November 2023

# 1. Introduction

- 1.** The Infrastructure (Wales) Bill<sup>1</sup> (the Bill) and Explanatory Memorandum<sup>2</sup> (EM), including the Regulatory Impact Assessment (RIA), were introduced by Julie James MS, the Minister for Climate Change (the Minister) on 12 June 2023.
- 2.** The Welsh Government also provided an RIA Methodology Paper, which provides further detail on the costings of the various options outlined in the RIA.<sup>3</sup>
- 3.** On 13 June 2023, the Minister made an introductory statement on the Bill in Plenary<sup>4</sup>.
- 4.** The Finance Committee (the Committee) took evidence on the financial implications of the Bill on 28 June 2023<sup>5</sup>, from:
  - Julie James MS, Minister for Climate Change;
  - Neil Hemington, Chief Planner, Welsh Government
  - Owen Struthers, Head of National Consenting, Welsh Government
- 5.** Policy scrutiny of the Bill was undertaken by the Climate Change, Environment and Infrastructure Committee (CCEI).<sup>6</sup>
- 6.** The Legislation, Justice and Constitution Committee also considered the Bill in accordance with matters which fall within its remit.<sup>7</sup>

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<sup>1</sup> [Welsh Government, The Infrastructure \(Wales\) Bill](#)

<sup>2</sup> [Welsh Government, Explanatory Memorandum](#)

<sup>3</sup> [Welsh Government, Methodology Paper](#)

<sup>4</sup> [Plenary, Record of Proceedings \(RoP\), 13 June 2023](#)

<sup>5</sup> [Finance Committee, RoP, 28 June 2023](#)

<sup>6</sup> [Climate Change, Environment and Infrastructure Committee](#)

<sup>7</sup> [Legislation, Justice and Constitution Committee](#)

## 2. Purpose and need for the Bill

**7.** The Bill proposes changes to the legislative framework for the consenting of infrastructure in Wales and in the territorial sea adjacent to Wales. The EM states the Bill aims to establish a unified consenting process for the development of infrastructure in Wales and in Welsh waters, replacing several statutory regimes. The Welsh Government refers to the new approach as a ‘one stop shop’.<sup>8</sup>

**8.** 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’ (“SIP”). Categories of infrastructure ascribed SIP status will include energy, transport, waste and water, among others. Developers must obtain an IC for a SIP, and the IC is intended to contain the full range of authorisations required to enable development to go ahead.<sup>9</sup>

**9.** The Minister said “this is a different kind of Bill; it's not a policy Bill”.<sup>10</sup> She added that it was “really important to understand that the Bill does not seek to influence or change any policy framework on which the decisions are based”.<sup>11</sup>

**10.** Currently, applications are made under various regimes with different procedures. There can be a number of stages to a decision, and development can require several consents.<sup>12</sup> For some developments, there may also be requirements for statutory pre-application consultation. The EM states:

*“...the differences between regimes have perpetuated and further widened with the devolution of energy infrastructure under the Wales Act 2017. This has resulted in numerous inconsistencies between consenting regimes for development which has similar impacts and requires similar authorisations.”<sup>13</sup>*

**11.** The consenting process considered involves the Welsh Government, local planning authorities, developers, communities and statutory consultees. The Minister said that “a long set of engagements” had been undertaken with the

<sup>8</sup> Welsh Government, Explanatory Memorandum, page 7

<sup>9</sup> Welsh Government, Explanatory Memorandum, page 5

<sup>10</sup> Finance Committee, RoP, paragraph 236, 28 June 2023

<sup>11</sup> Finance Committee, RoP, paragraph 166, 28 June 2023

<sup>12</sup> Welsh Government, Explanatory Memorandum, page 8

<sup>13</sup> Welsh Government, Explanatory Memorandum, page 9

various stakeholders, to ensure the changes proposed accounted for their requirements.<sup>14</sup>

**12.** She confirmed that a formal consultation paper was published in 2018 “which had the main principles of the Bill and the potential benefits in it”. She added:

*“...then we did an analysis of the consultation responses, which were generally positive—a lot of support for this unified consenting process that we’re looking at here. And then we had a real in-depth look with local authorities and with the Wales planning inspectorate division—Planning and Environment Decisions Wales—to understand their expected costs, because that’s where most of the impact would be, including undertaking new functions with the new consenting process.”<sup>15</sup>*

**13.** The Minister said the Bill had “been a long time coming” and been “in production for some considerable time.<sup>16</sup> She added:

*“there’s broad, general consent that this is a good thing and that it will streamline the process and assist people to get to the outcome that’s desired.”<sup>17</sup>*

## Committee view

**14.** The Committee welcomes the aim of this Bill to establish a unified consenting process for the development of infrastructure. We are also encouraged by the stakeholder engagement undertaken during development of the Bill. Consenting processes can be onerous and time-consuming and consolidating a number of consent types into a single process has the potential for a positive impact. We hope this streamlined approach will lead to efficiencies for all involved in the process.

**Conclusion 1.** The Committee is broadly content with the financial implications of the Bill as set out in the Regulatory Impact Assessment, subject to the comments and recommendations in this report. Should there be significant changes to the Regulatory Impact Assessment as a result of the

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<sup>14</sup> Finance Committee, RoP, paragraph 168, 28 June 2023

<sup>15</sup> Finance Committee, RoP, paragraph 169, 28 June 2023

<sup>16</sup> Finance Committee, RoP, paragraph 168, 28 June 2023

<sup>17</sup> Finance Committee, RoP, paragraph 170, 28 June 2023

recommendations made in this report, the Committee may consider those changes in more detail.

### 3. Financial implications of the Bill

#### Data and evidence

**15.** The evidence base used to inform the cost estimates in the RIA includes a 2019 report from Arup. The Minister’s official said the Arup report had been undertaken to establish the costs to the development sector arising from the Bill.<sup>18</sup>

**16.** The largest costs detailed in the RIA (across all options) are those associated with developers. However, the Arup report says, in some areas, estimates used a limited number of responses from developers in the calculation of costs.<sup>19</sup>

**17.** The Minister’s official highlighted the issues faced around obtaining cost data from developers due to the commercially sensitive nature of the information.<sup>20</sup> He expanded:

*“We’ve got to remember that, when developers engage people in this area, it’s a competitive process, so different consultancies are asked to bid. So, they are a little bit reticent about sharing their exact costs.”<sup>21</sup>*

**18.** However, the Minister said she was “very happy that Arup has taken a robust approach in the collation of the data and, to mitigate that, they undertook a cost validation exercise” which was tested with developers.<sup>22</sup>

**19.** The Minister’s official explained an “enhancement exercise” was undertaken to bring the information from the 2019 report up to date. He said:

*“...we did work particularly closely with local planning authorities and Planning and Environment Decisions Wales. We’ve got to acknowledge that a large part of this process is based on, or similar to, the existing developments of national significance regime. As those costs are costs that are incurred either by Welsh Government or by PEDW, we do know with a*

<sup>18</sup> Finance Committee, RoP, paragraph 177, 28 June 2023

<sup>19</sup> [Welsh Government, The cost of infrastructure development in Wales](#)

<sup>20</sup> Finance Committee, RoP, paragraph 177, 28 June 2023

<sup>21</sup> Finance Committee, RoP, paragraph 177, 28 June 2023

<sup>22</sup> Finance Committee, RoP, paragraph 191, 28 June 2023

*degree of certainty about those costs. So, we are confident as we can be that the costs we've identified for the development sector are accurate and appropriate.”<sup>23</sup>*

**20.** The RIA assesses the costs of the various consenting regimes. The analysis for Developments of National Significance (DNS) is used in the RIA to estimate aspects of costs of other regimes.<sup>24</sup> For example, the Welsh Government costs associated with Transport and Works Orders are assessed to be the equivalent to determining a high complexity DNS application.<sup>25</sup>

**21.** The Minister’s official said the Welsh Government had “worked with the developers to actually align the process as closely as possible to the DNS regime”, going on to say using the DNS costs was the “best estimate that we could come up with based on those processes”.<sup>26</sup>

**22.** The Minister provided assurance to the Committee that:

*“...having negotiated with these old systems with the developers, the process that was eventually used looked more like a DNS application than it did any of the others, and so everyone was happy with that.”<sup>27</sup>*

**23.** A Methodology Paper was provided alongside the RIA, which provides additional detail on the workings behind the costs for the options. The Committee asked whether it will be government policy to produce such a document for each Bill going forward.

**24.** The Minister said she felt the paper was “really clear and transparent” on how costs had been developed and that if it “works and the committee likes it” consideration may be given to producing such documents for future Bills.<sup>28</sup> She added:

*“...the idea is that the costs and savings are as transparent as we can make them, because we're also trying to keep our stakeholders on board and happy with the process. So, we hope that the committee finds the paper helpful and that it's*

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<sup>23</sup> Finance Committee, RoP, paragraph 177, 28 June 2023

<sup>24</sup> Welsh Government, Explanatory Memorandum, page 69

<sup>25</sup> Welsh Government, Methodology Paper, page 12

<sup>26</sup> Finance Committee, RoP, paragraph 194, 28 June 2023

<sup>27</sup> Finance Committee, RoP, paragraph 194, 28 June 2023

<sup>28</sup> Finance Committee, RoP, paragraph 179, 28 June 2023

*assisted in understanding how the costs in the RIA have been arrived at.”<sup>29</sup>*

## Committee view

**25.** The Committee notes that the 2019 Arup report has provided a useful basis to inform the RIA. However, it clearly has some weaknesses given the limitations of the available data, especially in relation to certain costs associated with developers. We acknowledge the Minister’s view that this links to the commercially sensitive nature of the information requested. However, we are encouraged to hear that a further cost validation exercise was undertaken.

**26.** We note that the DNS applications have been used as the basis for calculating costs of other consenting regimes and we heard that this was the most appropriate information to use.

**27.** The Committee found the Methodology Paper that was provided alongside the RIA very helpful. The Committee has long advocated that the Welsh Government should ‘show its workings’ when it comes to producing cost estimates. We also found that the details provided in the paper on how costs has been developed for the various options outlined in the RIA provides further transparency. However, as this is the first time a Methodology Paper has been produced, the Committee is keen to understand more about how and when such papers will be published and what the Welsh Government’s overall approach to providing such information will be in future.

**Recommendation 1.** The Committee believes that the methodology paper provided in relation to this Bill serves as a good practice model for future legislation. Therefore, we recommend that the Welsh Government considers including such details, which are used to inform the cost estimates arising from each Bill, within Regulatory Impact Assessments, rather than as separate documents, as a matter of principle.

## Costs, savings and benefits

**28.** The RIA sets out communities as one of the groups that could incur costs, however, it does not provide any estimates to this group for any of the options outlined.<sup>30</sup> It says communities and interested parties can review and comment

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<sup>29</sup> Finance Committee, RoP, paragraph 179, 28 June 2023

<sup>30</sup> Welsh Government, Explanatory Memorandum, page 64

on proposed developments.<sup>31</sup> However, while there is a time cost to that participation, the RIA notes:

*"...this cost is variable, depending on the background of the respondent and the nature of their response. Therefore, it is not possible to provide a sum based on the time spent commenting on proposed schemes. This cost is therefore unknown".<sup>32</sup>*

**29.** The Minister highlighted that the amalgamation of these processes into the single infrastructure consenting regime "will make it much more open and transparent to communities and will give them a much better understanding of how to make their views known".<sup>33</sup>

**30.** The Minister's official outlined the difficulties of quantifying benefits to communities:

*"... for example, we don't know how much actual cost communities incur in engaging with this process, but what we can say, I think, with some certainty is if they engage once with one process, it's likely to be less than engaging multiple times with multiple processes. So, although we are happy to say that there are positive outcomes in terms of cost, we cannot, obviously, pin that down to a monetary figure."<sup>34</sup>*

**31.** There are transitional costs associated with the legislation of £18,600, followed by ongoing costs of £4.3 million a year. Over the five-year appraisal period, 2024-25 to 2028-29, the total cost of the Welsh Government's preferred option is £17.5 million.<sup>35</sup> Compared to the current system, this is a total net saving over the appraisal period of £2.2 million. The RIA states that:

*"In addition to the identified cost-savings, the Bill will provide significant benefits over and above which it is possible to quantify financially by providing a more streamlined and unified consenting process for the determination of SIPs".<sup>36</sup>*

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<sup>31</sup> Welsh Government, Explanatory Memorandum, page 73

<sup>32</sup> Welsh Government, Explanatory Memorandum, page 74

<sup>33</sup> Finance Committee, RoP, paragraph 200, 28 June 2023

<sup>34</sup> Finance Committee, RoP, paragraph 174, 28 June 2023

<sup>35</sup> Welsh Government, Explanatory Memorandum, page 107

<sup>36</sup> Welsh Government, Explanatory Memorandum, page 57



**32.** In relation to these unquantifiable benefits, the Minister explained “this is all about the streamlining effect of this process and how the various public consultees respond”<sup>37</sup>. She gave the example of a major flood development project which she said might require:

*“...a marine licence, it might need planning consent, it might need highways consent, it might need a harbour revision authority order—there are a range of things. As it stands at the moment, a developer who wanted to do that—and, often, the Welsh Government is the one who's trying to put flood defences in—would have to go round the range of things there and speak to the various consultees about it. Frankly, quite often, they're the same consultees—you'd speak to NRW on the marine licence, and then later on they'd be a statutory consultee on the planning consent, and so on. So, we think it allows them to streamline and co-ordinate their response.”<sup>38</sup>*

**33.** Whilst the Minister said that the benefits were “hard to quantify”<sup>39</sup>, she told the Committee:

*“...the one-stop shop provides a significant streamlining for the developers, and, I think, from the developers that I've spoken to, which are a very large number of the ones who have an interest in, for example, floating wind, they're very happy with the process and looking forward to it becoming the way that they deal with it.”<sup>40</sup>*

**34.** The RIA sets out fees and ‘reimbursed’ costs. These are netted off in the overall costs in the RIA. The Minister’s official said this approach was taken because, among other things, they are “seeking to achieve full cost recovery”.<sup>41</sup>

**35.** In the RIA, infrastructure applications have been divided into three levels based on their likely complexity: low, medium or high complexity.<sup>42</sup>

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<sup>37</sup> Finance Committee, RoP, paragraph 173, 28 June 2023

<sup>38</sup> Finance Committee, RoP, paragraph 173, 28 June 2023

<sup>39</sup> Finance Committee, RoP, paragraph 173, 28 June 2023

<sup>40</sup> Finance Committee, RoP, paragraph 191, 28 June 2023

<sup>41</sup> Finance Committee, RoP, paragraph 217, 28 June 2023

<sup>42</sup> Welsh Government, Methodology Paper, page 5

**36.** The Minister's official explained that applications had been categorise based "on our technical expertise and knowledge of the applications we've seen previously."<sup>43</sup> He also said:

*"We've looked back at the types of application received, and, critically, we've looked at how they've been dealt with by PEDW. So, obviously the more straightforward applications have been dealt with through a written representations procedure, with the most complicated ones going to inquiry. So, that has been of assistance to us in that categorisation process. When we're looking at the existing situation, where there are multiple consents required, we've based it on the most complicated one of the multiple consents. So, as the Minister mentioned previously, this is about a one-stop shop."*<sup>44</sup>

**37.** For SIPs, the Bill proposes a tier of optional thresholds and criteria below the compulsory levels. The Minister said:

*"There are thresholds that set out which applications fall into this and which don't, and they're set out on the face of the Bill. But we'll also use guidance for stakeholders in understanding the type of project that might be directed to be a significant infrastructure project... So, something that falls below the threshold—a fairly small onshore windfarm, for example, that's below the threshold—doesn't fall automatically into this, but because of its siting or a particular thing that's happening locally—it's highly controversial and it's having an impact on perhaps the way that the grid connections work locally and so on—it might be that we take the view that, even though it's below the threshold, it actually has a much more significant impact on Welsh life than would otherwise be the case. So, we'd have the ability to option it into the system, if you like."*<sup>45</sup>

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<sup>43</sup> Finance Committee, RoP, paragraph 187, 28 June 2023

<sup>44</sup> Finance Committee, RoP, paragraph 187, 28 June 2023

<sup>45</sup> Finance Committee, RoP, paragraph 219, 28 June 2023

## Committee view

**38.** It is disappointing that the costs that could be incurred by communities, were not estimated in the RIA. We therefore reiterate our view made in our report on the Tertiary Education and Research (Wales) Bill:

*“...the importance of cost assessments being complete on introduction of a Bill, not only to ensure proper scrutiny by the Senedd, but to ensure that the resource implications are fully understood by stakeholders impacted by the Bill.”<sup>46</sup>*

**39.** We know there is a cost to communities in terms of their time and efforts for participating in these processes. Whilst we appreciate this is complicated to calculate and that estimates will vary, depending on the nature of responses and participation, we feel more work could have been undertaken and more detail provided on how these benefits will materialise. Nonetheless, we acknowledge that the streamlining of these processes should lead to a reduction in such costs for participants and we hope that the system will be easier to understand. This, in turn, may lead to increased engagement from communities and interested parties.

**Recommendation 2.** The Committee recommends that the Minister undertakes the following and that the information is included in a revised Regulatory Impact Assessment, after Stage 2:

- undertakes further modelling work to identify the costs and benefits for communities and/or interested parties arising from the Bill. This information should include an analysis to show the potential range of costs and benefits that might be incurred; and
- provides examples or further information on community involvement, how that currently works, who is involved and how it might change as a result of the Bill.

**40.** The Committee is pleased to note that, over the five-year appraisal period, there will be a total net saving of £2.2 million compared to the current system. We also note claims that the Bill will result in benefits which are not possible to quantify financially. We recognise that there will be likely savings resulting from a streamlined consenting regime, however, it would be useful if the RIA provided

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<sup>46</sup> [Finance Committee, Report on Financial Implications of the Tertiary Education and Research \(Wales\) Bill, March 2022](#)

more information on the benefits outlined. While ideally there should be some attempt to quantify them in the RIA, the Committee would welcome more detail on where, how and when those benefits might occur and who stands to benefit. We believe any claims of significant benefits arising from a Bill, should always be backed up by robust costings in the RIA, wherever possible.

**Recommendation 3.** The Committee recommends that the Minister undertakes further work in regard of the financial benefits arising from a streamlined consenting process. This information should be included in a revised Regulatory Impact Assessment, after Stage 2.

**41.** We note that the Minister intends for the new consenting regime to operate on the basis of full cost recovery. The Committee is keen to understand in more detail how this will work and how it will compare to the current system, particularly in terms of the impact on developers.

**Recommendation 4.** The Committee recommends that the Minister provides further information on how fees will differ under the new regime, compared to the current regime, and the impact of this on relevant stakeholders.

**42.** For SIPs, the Bill proposes a tier of optional thresholds and criteria below the compulsory levels and we note that the Minister will issue guidance to stakeholders. We appreciate the flexibility of having an optional threshold provides. However, it would be useful to understand further how the process associated with the optional threshold might work in practice, including how this may impact on the costs and benefits included in the RIA.

**Recommendation 5.** The Committee recommends that the Minister provides further information on the process associated with the optional threshold, including whether this flexibility could lead to some variability in the efficiencies outlined in the RIA.

## Post-implementation review

**43.** The EM and RIA outline that statutory timeframes for the determination of IC applications are set out in the Bill. Provisions require the Welsh Ministers to lay before the Senedd annual reports on their compliance with the statutory timeframe and the use of any direction to extend that statutory timeframe on a

case-by-case basis. Formal monitoring of the IC process will be undertaken as part of that report.<sup>47</sup>

**44.** The Welsh Government also proposes an overall evaluation project within five years of implementation to measure the outcome of the process, and “to identify any future improvements which may be required”.<sup>48</sup>

**45.** Given that the Bill aims to make the process more efficient, the Minister committed to the evaluation assessing the overall costs and benefits of the change.<sup>49</sup> However, she notes the assessment would be:

*“...subject to all the same limitations as the current system, so we won't have all the development data, for example. It will be impossible because it's commercially sensitive and there'll be other issues with that. But, yes, we absolutely will do a review of that.”<sup>50</sup>*

## Committee view

**46.** The Committee reiterates its view that the inclusion of a robust post-implementation review is good practice and helps to ensure the objectives of legislation are being delivered in line with expectations and that value for money has been achieved. Given this Bill is about streamlining a process, capturing such information is even more important. We therefore welcome the inclusion of the post-implementation review in this Bill and the Minister's commitment to assess the overall costs and benefits of the change.

**Recommendation 6.** The Committee recommends that any post-implementation review assesses the overall costs and benefits of the new consenting regime and whether this met the expectations set out in the Regulatory Impact Assessment.

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<sup>47</sup> Welsh Government, Explanatory Memorandum, page 113

<sup>48</sup> Welsh Government, Explanatory Memorandum, page 113

<sup>49</sup> Finance Committee, RoP, paragraph 234, 28 June 2023

<sup>50</sup> Finance Committee, RoP, paragraph 234, 28 June 2023